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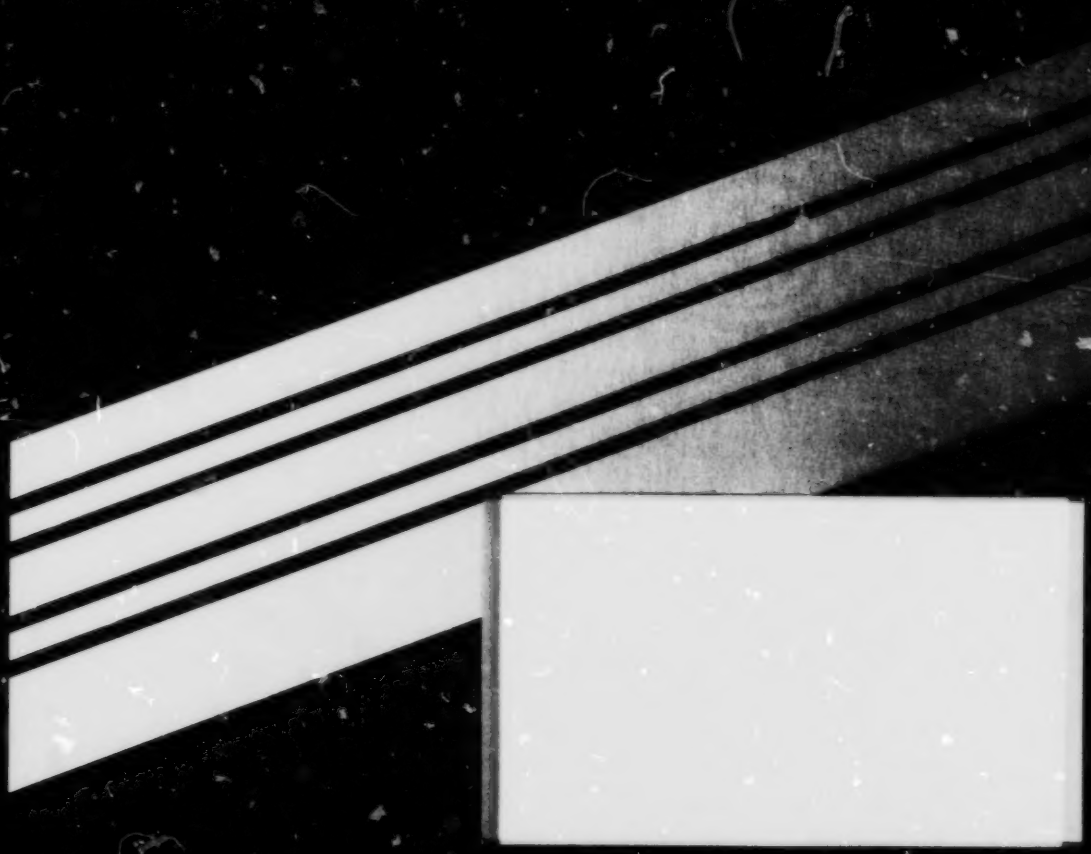

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THE RELATIONSHIP BETWEEN THE AGE OF THE ACCUSED YOUNG PERSON AND OTHER PERSONAL AND CASE CHARACTERISTICS

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This working paper is available in French. Ce document de travail est disponible en français.

Administrative Abstract

This research report explores the relationship between the age of the accused young person and background and case characteristics. The most important hypothesis tested was that older juveniles utilized more of the resources of the juvenile court and its allied services than younger persons.

The analysis employed data collected by the National Study on the Functioning of the Juvenile Court in 1981-82, in five "high flow" courts (Montreal, Toronto, Winnipeg, Edmonton and Vancouver) and several smaller courts (Halifax-Dartmouth, three communities in the Eastern Townships of Quebec, circuit courts north of Edmonton, and Kelowna, British Columbia). A comparable sample of diverted juveniles was obtained from the four courts where institutionalized screening agencies were in operation at the time of the research -- in Montreal, Winnipeg, Vancouver and Kelowna.

The age of the young person was not correlated with the majority of the legal attributes of the case which tend to increase the utilization of court resources. Older juveniles -- especially the 16 and 17 year olds in jurisdictions with an upper limit of 17 or 18 years -- were not being referred to court for more, or more serious offences. In the large city courts, older juveniles did not have more scheduled hearings, or consume more courtroom time. They did not have more scheduled hearings, or consume more courtroom

time. They did not have more trials, were not the subject of more social-psychological reports, and did not exhibit major differences in terms of the presence or type of legal representation in most of the juvenile courts involved in this research. The only case attribute that was positively correlated with the juvenile's age was his/her prior record; in three court locations, older juveniles were more likely to have had prior findings of delinquency than were their younger peers.

The research thus rejected the original hypothesis that an increase in the number of older juveniles would result in an increased demand for court resources greater than that suggested by the simple numerical increase in cases.

A secondary objective of this research was to determine if the age of accused young persons was associated with the decision to screen them from court to alternative measures. The hypothesis that the older the young person, the lower the likelihood that he or she would be diverted, was accepted -- with some qualifications -- in three of the four courts from which diversion data were obtained.

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Chapter 1: INTRODUCTION

The National Study on the Functioning of the Juvenile Court

The National Study was undertaken in 1981-82 by the Ministry of the Solicitor General of Canada, with the cooperation of the relevant provincial ministries, in preparation for the Young Offenders Act (Y.O.A.).[1] The purpose of the research was to provide baseline data on the way in which a number of juvenile courts were functioning prior to the implementation of the new legislation. Another objective was to provide policy-relevant data in areas such as the relationship between the age of the accused young person and juvenile justice system processing. This report presents the analysis of Study data related to this topic.

The major component of the Study was a court observation and file survey of approximately 2,500 young persons dealt with by juvenile courts in different regions of Canada. The juvenile courts involved were: Halifax and Dartmouth, Montreal, three courts in communities in the Eastern Townships of Quebec,[2] Toronto, Winnipeg, Edmonton, the circuit courts outside of Edmonton, Vancouver and Kelowna.

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[1]The National Study was a collaborative project designed and implemented by the Solicitor General of Canada and the principal investigators in each province: Tom Barrett (Halifax-Dartmouth), Marc LeBlanc (the courts in Quebec), Sharon Moyer (Toronto), Rick Linden and Rod Kueneman (Winnipeg), Robert Silverman (Edmonton and the circuit courts), and Ray Corrado (the two B.C. courts).

[2]The three communities were Granby, St. Hyacinthe and Cowansville.

The Study was designed to sample cases appearing in several courts with a maximum age of 18 years (the Quebec courts and Winnipeg), two courts where the maximum age was 17 years at the time of the research (Vancouver and Kelowna), and courts in three jurisdictions where the maximum age was 16 years (Halifax-Dartmouth, Toronto, Edmonton and the circuit courts).

The court component of the Study sampled all juvenile cases beginning on 25 May 1981; depending on the court, the sample period ended on 31 July 1981, or in October 1981.[1] Research staff observed all juveniles having their first hearing on a new set of charges in that time period; their cases were observed from first to last appearance. Court observation ended at the beginning of April 1982. By that time, the large majority of cases making their first appearance during the sample period had been concluded. Data on the sample not available from observation of court proceedings were collected from court, detention and probation files.

A sample of diverted cases was also obtained by the Study. Data on diverted youth obtained from the files of the provincial screening agencies in Montreal, Winnipeg, Vancouver and Kelowna were collected by the researchers in those communities. The sampling period for the diverted cases was comparable to that of the court-referred sample.

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[1]Because of smaller than expected samples, the sample period was extended to October 1981 in Halifax-Dartmouth, Vancouver and Kelowna.

The Purpose of this Report

This report investigates the degree to which the age of the young person is related to the other characteristics of the case and to the court processes experienced by the samples. The report also examines the associations between age and the decision to screen, or divert, the youth away from a court experience. The research is intended to inform the policy process by providing empirical data on the social and legal characteristics of accused juveniles of various ages, and on the manner in which they are dealt with by the juvenile court and the provincial screening (diversion) agencies.

The general hypotheses which are examined in this report are as follows:

- Apprehended juveniles of different ages vary in their personal characteristics and/or their offences, which in turn affect the screening/court processing they experience.
- Courts and screening agencies treat young persons of different ages differently, as a result of the perception that older juveniles have greater responsibility for their delinquent behaviour.

Although all age differences are reported, most emphasis is placed on the 16 and 17 year olds in the samples, in order to ascertain the extent to which this older age group differed from their younger counterparts in the same court. This focus is of course related to the uniform maximum age specified in the Y.O.A.: were 16 and 17 year olds in the Study sample a "different breed" from younger persons also referred to court in the same jurisdiction?

The specific topics addressed in this report are the differences and similarities of the various age groups in terms of their demographic and social characteristics, prior record, the number, nature and severity of current charges, court processes, and case outcomes. In addition, the age variations in the youth screened from a court appearance and those court-referred are examined.

Where appropriate, brief comparisons of the differences in the key characteristics of the samples -- without reference to age -- are also made, in order to highlight the variations among the Study courts in their juvenile court populations.

Methodological Considerations

The analysis utilized the significance level of .05 (using the chi-square statistic) for most of the discussion of "significant" relationships -- that is, unless the relationship was significant at the .05 level, it was not reported. The exception to this general rule was when the relationship was part of a trend found in several courts; under these circumstances, relationships significant at the .10 level were also included in the discussion.

The National Study was undertaken in both large and small city juvenile courts. The smaller courts -- particularly the three courts in the Eastern Townships, the Edmonton circuit courts, and Kelowna -- generated relatively small samples of persons accused of federal offences during the Study sample period. In these courts, the absence of statistically significant relationships cannot be interpreted as definitely indicating that age is unrelated to other factors. It may be that there were associations with age in the population from which the samples were drawn, but because of the small sample sizes, we cannot clearly determine their presence or absence.

The Organization of this Report

Chapter 2 examines the total National Study court-referred sample in terms of the age and offence distributions, and provides an estimate of the potential effect of limiting youth court jurisdiction, under the Young Offenders Act, to persons over the age of 12 years and referred to court for one or more federal offences.[1] The chapter also describes the age distribution of the federal samples between the ages of 12 and 17 years.

In Chapter 3, the analysis turned to the associations between age and the social and legal characteristics of the court-referred samples, in order to determine if age was associated with such background and case-related factors. This chapter examines whether juveniles of different ages, particularly the 16 and 17 year olds, were a "different breed" from their younger counterparts at the same site.

Chapter 4 examines the nature of the court process itself with regard to the age of the accused; the analysis includes the use of pre-disposition detention, the type of plea, legal representation, the use of social and psychological reports, the length of the court process and case outcomes. The objective of this analysis was to assess whether the age of the young person was associated with the way he or she was dealt with by the juvenile courts participating in the National Study.

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[1] A "federal offence" is an alleged violation of the Criminal Code of Canada or an other federal statute, such as the Food and Drug Act or the Narcotics Control Act.

In Chapter 5, the report broadens its scope by including screened (i.e., diverted) young persons. The first sections parallel the presentation found in Chapter 2, but this time for the diverted group alone; this analysis focusses on the possible impact on screening agency caseloads of removing persons under the age of 12 years and accused of provincial offences from federal jurisdiction under the Y.O.A. The last sections of Chapter 5 describe the relationships between age and the decision made by the screening agency to divert or to refer to court. The data on the diverted and court-referred samples were combined, in order to assess whether age had any relationship to this decision in Montreal, Winnipeg, Vancouver and Kelowna. In addition, a number of variables were introduced as controls, to explore whether relationships between age and the decision to divert emerged or were eliminated for certain subsets of the population.

Chapter 6 provides a brief overview of the findings of this analysis of the relationships, and lack of relationships, between age and juvenile justice processing, discusses possible reasons for the unanticipated non-effect of age, and offers some recommendations for future research.

The supporting tables not found in the body of the report are in Appendix A. In Appendix B, the combined court-referred and diverted samples are described in order to ascertain if, in the courts with screening agencies, age is related to socio-legal factors in the total population of apprehended young persons.

Chapter 2: THE RESTRICTION OF THE JURISDICTION OF THE YOUTH COURT

Introduction

The Young Offenders Act restricts the jurisdiction of the youth court by setting the lower limit of court jurisdiction at 12 years, rather than at 7 years, as was the case under the Juvenile Delinquents Act. However, in two of the six jurisdictions in which the National Study was undertaken legislation or provincial policy had in effect raised the minimum age. In Quebec, the Youth Protection Act, implemented in 1979, had raised the lower limit to 14 years. In Manitoba, most young persons under the age of 12 years were dealt with informally by the provincial screening agency, and very few were referred to court.

The jurisdiction of the youth court has also been reduced by restricting federal jurisdiction to violations of the Criminal Code of Canada and other federal statutes, such as the Narcotics Control Act and the Food and Drug Act. The Y.O.A. has therefore excluded provincial statute and municipal violations; included in this category of offences are truancy, provincial traffic and liquor offences.[1] In addition, "sexual immorality or any similar forms of vice" (s. 2 of the Juvenile Delinquents Act) were eliminated.[2]

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[1]However, all provinces have taken measures to deal with provincial statute violations.

[2]The National Study data indicated that the offence of "sexual immorality..." constituted a minute proportion of the charges laid against the court sample -- 3 charges out of a total of approximately 8,000.

The Age Distribution of the Court Sample

The age distribution of the total sample of court-referred cases is found on Table 2.1 The data show that, prior to the proclamation of the Y.O.A., persons under the age of 12 years constituted very small proportions of the courts' caseloads. No children under 12 appeared in court in Montreal, the Eastern Townships, Winnipeg, and Kelowna, B.C. Only one person in both the Edmonton circuit and Vancouver samples was between the ages of 7 and 11 years -- about 1% or fewer of those two samples. In Edmonton, 4% of the cases sampled (10 children) were under 12 years of age. In both Halifax-Dartmouth and Toronto, 7% of the court-referred cases were under 12 years (7 and 29 children, respectively).

Therefore, in total only 48 children under 12 years of age were referred to juvenile court during the Study period. Forty-four of this group were charged with one or more Criminal Code or other federal statute violation, a finding that indicates that few children between 7 and 11 were charged with solely provincial offences.

Table 2.1

THE AGE DISTRIBUTION OF THE TOTAL SAMPLE

	Halifax-Dartmouth	Montreal	Eastern Townships	Toronto	Winnipeg	Edmonton	Edmonton Circuit Courts	Vancouve	Kelowna
7-11 years	7.2% (7)	N.A.	N.A.	6.7% (29)	N.A.	4.0% (10)	1.4% (1)	0.3% (1)	0%
12-13 years	21.6 (21)	N.A.	3.7% (5)	27.1 (117)	11.9% (68)	23.3 (58)	23.0 (17)	10.5 (35)	2.2 (3)
14 years	22.7 (22)	12.0% (54)	10.5 (14)	29.9 (129)	14.2 (81)	26.9 (67)	32.4 (24)	20.8 (69)	4.3 (6)
15 years	48.5 (47)	19.6 (88)	11.2 (15)	36.2 (156)	18.9 (108)	45.8 (114)	43.2 (32)	22.3 (74)	15.8 (22)
16 years	N.A.	29.0 (130)	26.1 (35)	N.A.	25.5 (146)	N.A.	N.A.	46.1 (153)	77.7 (108)
17 years	N.A.	39.4 (177)	48.5 (65)	N.A.	29.6 (169)	N.A.	N.A.	N.A.	N.A.
Total percent	100.0%	100.0%	100.0%	99.9%	100.1%	100.0%	100.0%	100.0%	100.0%
Total number	97	449	134	431	572	249	74	232	139

Note that the totals exclude persons whose age was not known.

The Types of Charges: Provincial and Federal Offences

As described above, the Y.O.A. has restricted the jurisdiction of the youth court to federal violations -- most commonly, the Criminal Code and federal drug statutes. On Table 2.2 is found the proportion of the total court-referred sample who were charged with only provincial offences, both provincial and federal offences, and only federal offences. With the proclamation of the Act, persons charged with only provincial offences would not come under the jurisdiction of the Y.O.A.; those accused of both provincial and federal offences would still be dealt with by the youth court with regard to their federal charges.

In the majority of Study courts, youth accused of only provincial statute violations constituted 20% or fewer of the caseload. The exceptions were the Eastern Townships of Quebec and Kelowna, where over 50% of the samples were charged with only provincial offences. The 81 provincial accused in the Eastern Townships were dealt with in the juvenile court under provincial legislation (the Summary Conviction Act) and were therefore not strictly speaking J.D.A. cases. These persons were included in the sample for purposes of comparison with the other Study courts. In Kelowna, the usual practice for violations of provincial statutes was to divert first offenders from a court appearance. However, in the summer of 1981 during data collection for the National Study, probation personnel halted the earlier procedures so that many more provincial offenders were referred to the Kelowna court.

Table 2.2

THE TYPE OF CASE (PROVINCIAL OFFENCES ONLY, BOTH PROVINCIAL AND FEDERAL OFFENCES, AND CRIMINAL CODE/OTHER FEDERAL OFFENCES ONLY), BY SITE

	Halifax-Dartmouth	Montreal	Eastern Townships	Toronto	Winnipeg*	Edmonton	Edmonton Circuit Courts	Vancouver	Kelowna
Provincial offences only	3.0% (3)	12.3% (56)	59.6% (81)	10.2% (45)	19.6% (114)	10.4% (26)	20.5% (17)	11.5% (40)	52.8% (75)
Both provincial and C.C./other federal offences	1.0 (1)	4.4 (20)	0.7 (1)	7.5 (33)	18.8 (109)	6.0 (15)	6.0 (5)	8.9 (31)	19.7 (28)
C.C./other federal offences only	96.0 (96)	83.3 (378)	39.7 (54)	82.3 (363)	61.6 (358)	83.6 (209)	73.5 (61)	79.5 (276)	27.5 (39)
Total percent	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	99.9%	100.0%
Total number	100	454	136	441	581	250	83	347	142

*The proportion of provincial offenders in Winnipeg is probably an underestimate of the actual percentage of such cases. Minor traffic cases in Winnipeg were heard by a provincial magistrate under the Juvenile Delinquents Act. Such cases were not observed as part of the National Study.

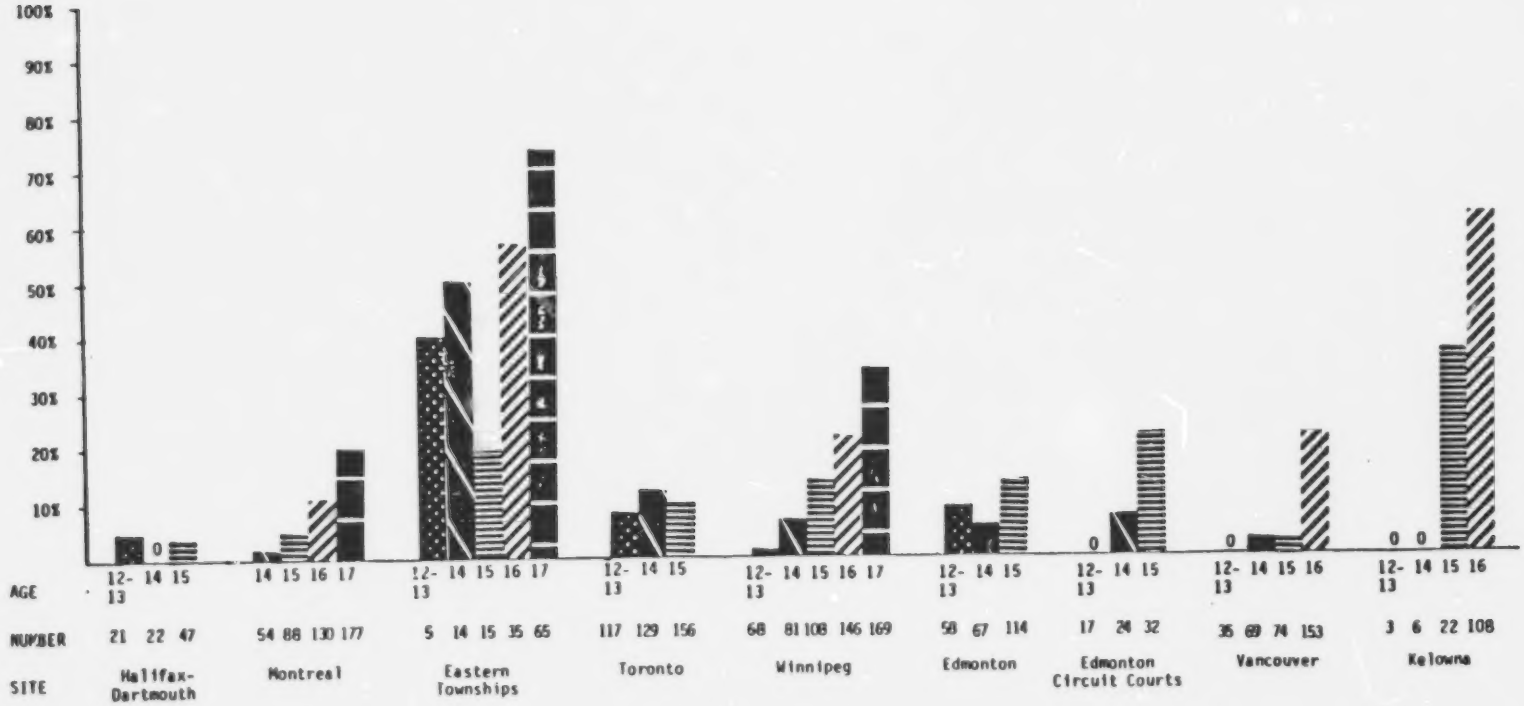
Note that totals may differ in subsequent tables because of missing values.

Because most provincial infractions involving young persons are related to motor vehicle or liquor incidents, it is not surprising to find that there was a positive association between age and being charged with only provincial offences in all court locations with a maximum age of 17 or 18 years (Figure 2.1). Sixteen year olds and (especially) 17 year olds were considerably more likely to have been referred to court for provincial offences than were younger persons. In courts where the maximum age was 16 years, there was no relationship between the age of the accused and being charged with solely provincial or municipal offences.

In summary, persons accused of only provincial offences accounted for between one-tenth and one-fifth of the caseloads of the large city National Study courts. In the Quebec courts, Winnipeg, and the B.C. courts, the older juveniles (the 16 and 17 year olds) were disproportionately charged with only provincial offences.

Figure 2.1

PERCENT OF EACH AGE CATEGORY WHO WERE PROVINCIAL OFFENDERS



The Combined Effect of Restricting the Jurisdiction of the Youth Court to Persons aged 12 years or more and to those Accused of Federal Offences

The combined impact on court caseloads and workloads of restricting the jurisdiction of the youth court to persons 12 years or more accused of Criminal Code or other federal charges is estimated in Table 2.3. Excluding the Eastern Townships and Kelowna, persons under 12 years and those charged with only provincial or municipal offences required from 6% to 14% of the total number of hearings and from 2% to 12% of the total courtroom time consumed by the samples, even though their proportion of the total caseloads of the court ranged from 10% to 21%.

Therefore, a comparison of the last three columns on Table 2.3 reveals that most courts processed provincial offenders and persons under 12 more rapidly than they did other accused youth. It appears reasonable to conclude that, in most courts, the reduction in court workload would be less than the decrease in the court population brought about by the restriction of the jurisdiction of the youth court. Because caseloads would decrease moderately, one cannot also expect that there would be an equivalent drop in workloads, as measured by the total number of hearings and courtroom time.

Table 2.3

AN ESTIMATE OF THE POTENTIAL IMPACT OF ELIMINATING YOUTH 7 TO 11 YEARS AND PROVINCIAL/MUNICIPAL OFFENCES ON COURT CASELOADS AND COURT WORKLOADS

	Total sample (N)	N of prov. offenders and youth 7-11 years	Percent of total sample	Percent of total N hearings	Percent of total N courtroom minutes
Halifax-Dartmouth	100	10	10%	8%	10%
Montreal	454	56	12%	7%	2%
Eastern Townships	136	81	60%	36%	4%
Toronto	441	71	16%	13%	11%
Winnipeg	581	114	20%	6%	5%
Edmonton	250	36	14%	12%	12%
Edmonton Circuit Courts	83	17	21%	14%	8%
Vancouver	347	41	12%	8%	6%
Kelowna	142	75	53%	33%	24%
Total	2,534	501	20%	10%	7%

The Age Distribution of the Court-referred Sample 12 Years or More and Accused of Federal Offences

The remainder of this discussion on the court-referred samples will focus exclusively on the young persons who were 12 or more years of age at the time of the offence(s) that brought them into the sample, and who were also charged with one or more Criminal Code or other federal offences. Table 2.4 presents the age distribution of this group. In most court locations, there was an incremental increase by age in the proportion of the total comprised by each age category.

In the Quebec courts, where the upper limit of court jurisdiction was 18 years, 16 and 17 year olds comprised approximately 60% of the sample. In Winnipeg, with the same limit, the proportion of 16 and 17 year olds was somewhat lower, at about 50%. Unlike the Montreal sample, in Winnipeg substantial numbers of 12 and 13 year olds were referred to the juvenile court, therefore decreasing the proportions of the total made up by the 16 and 17 year olds. In Vancouver and Kelowna, where the maximum age at the time of the research was 17 years, the 16 year olds constituted 40% or more of the cases. These data suggest that the increase in the maximum age to 18 years which occurred in April 1985, may have brought a large influx of cases into the youth court in the jurisdictions where the previous upper limit was 16 years.

Table 2.4

THE AGE DISTRIBUTION OF THE SAMPLE, PERSONS 12 OR MORE YEARS OF AGE ACCUSED OF FEDERAL OFFENCES

	Halifax-Dartmouth	Montreal	Eastern Townships	Toronto	Winnipeg	Edmonton	Edmonton Circuit Courts	Vancouver	Kelowna
12-13 years	23.0% (20)	N.A.	5.6% (3)	29.8% (108)	14.5% (67)	24.8% (53)	26.6% (17)	11.9% (35)	4.6% (3)
14 years	25.3 (22)	13.5 (53)	13.0 (7)	31.5 (114)	16.3 (75)	29.4 (63)	34.4 (22)	22.8 (67)	9.2 (6)
15 years	51.7 (45)	21.3 (84)	22.2 (12)	38.7 (140)	20.2 (93)	45.8 (98)	39.1 (25)	24.5 (72)	21.5 (14)
16 years	N.A.	29.4 (116)	27.8 (15)	N.A.	24.7 (114)	N.A.	N.A.	40.8 (120)	64.6 (42)
17 years	N.A. —	35.8 (141)	31.5 (17)	N.A.	24.3 (112)	N.A.	N.A.	N.A.	N.A.
Total percent	100.0%	100.0%	100.1%	100.0%	100.0%	100.0%	100.1%	100.0%	99.9%
Total number	87	394	54	362	461	214	64	294	65

Note that the totals exclude persons whose age was not known.

Chapter 3: THE RELATIONSHIP BETWEEN AGE AND THE SOCIAL AND LEGAL CHARACTERISTICS OF THE COURT-REFERRED SAMPLES

Introduction

This chapter reports the findings on the relationship between age and the demographic and social characteristics of the court-referred accused, the existence and extent of their prior court contacts, and the number and nature of their current charges. This analysis is directed towards exploring the hypothesis that apprehended juveniles of different ages vary in their personal and legal characteristics; more specifically, the analysis focusses on a comparison of younger and older juveniles at each court location in order to determine if young persons of different ages vary on any major social or legal dimension.

Demographic and Social Characteristics

As all North American juvenile justice research has found, young women were underrepresented in the caseloads of the Study courts. Female accused were least often encountered in the Quebec sites; 2% of the Eastern Townships and 7% or the Montreal samples were female. In the remaining jurisdictions, from 12% to 24% of the samples were young women.

Three courts showed a significant association between age and gender. In Halifax-Dartmouth, a significantly larger proportion of the 14 year olds were female, compared to the 12, 13 and 15 year olds; that is, the middle age category was more likely to be female than the younger and older groups. The Montreal and Vancouver data showed a more expected pattern: persons at the lower end of the age distribution -- 14 and 15 year olds in Montreal, and 12 to 14 year olds in Vancouver -- were disproportionately female.

Statistics on the operation of the adult criminal justice system in the prairie provinces have often shown that many more persons of Native origin are involved in the system than their representation in the population would suggest. This was also true of the National Study for the prairie samples; Native juveniles made up 17% of the Winnipeg, 10% of the Edmonton, and 36% of the Edmonton circuit court samples. However, in the remaining Study sites, the proportion of Native juveniles was approximately the same as their representation in the population. In the two B.C. courts, Natives constituted only 6% of the samples. In the Study courts located in central and eastern Canada, Indian and Metis youth were rarely referred to court (1% or fewer of the court-referred samples were Native).

When other non-whites (blacks, East Indians, etc.) are combined with the Natives sampled, the proportion of non-whites in the court sample rose somewhat: 9% in Halifax-Dartmouth, 2% in Montreal, 19% in Toronto, 18% in Winnipeg, 14% in Edmonton, and 21% in the Vancouver court were non-white.

Only in Winnipeg was there a significant relationship between age and the race of the accused. A larger percentage of the 12 and 13 year olds were non-white (generally Natives) than were those 14 to 17 years of age.

According to the literature, the overrepresentation in juvenile court caseloads of young persons from single parent homes is a common feature of juvenile court processing. In this research, from one-quarter to two-fifths of the samples lived in one parent homes; unfortunately, population data are not available for purposes of comparison. Between 40% and 50% of young persons lived with both parents, while the remainder resided in institutions such as group or foster homes, or in "other" living arrangements.

In three courts, age was associated with the living arrangements of the accused. In Montreal, 17 year olds were more likely to be living in "conventional" home situations -- with two parents -- and less likely to reside in a single parent home than were younger juveniles. Winnipeg 17 year olds, however, differed from their younger peers by disproportionately living in "other" arrangements (such as independent living) and by being less likely to reside in an "institution", such as a group or foster home. Persons 16

years of age in Kelowna were similar to the 17 year olds in Montreal -- they tended to reside in two parent homes in larger proportions than did youth between 12 and 15 years.

Another measure of the social situation of the sample is the legal custody of the accused: in parental care, in the custody of the jurisdiction's child protection agency, or in an "other" status (e.g., in the care of a guardian, a ward of the training school, "on the run", or independent living). In both the Winnipeg and Vancouver samples, younger juveniles were more likely to be in the care of persons or agencies other than their parents than were the older persons. The 12 and 13 year olds in Winnipeg were disproportionately in the care of the Children's Aid Society or in an "other" status, when compared to the 14 to 17 year olds. In the case of Vancouver, 21% of the 12 to 14 year olds were in the care of the child protection agency, but only 9% of the 15 and 16 year olds had that legal status.

The overlap between what has been termed the child welfare and juvenile court streams of judicial processing has been of concern to juvenile justice commentators (e.g., Bala and Corrado, 1985). The current research measured this relationship by an item asking if the accused's name was found in the child welfare court files.[1] Depending on the court, between 4% and 37% of the

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[1]The research sites differed in the method of operationalization of this variable and the data may therefore not be strictly comparable across courts. Data on this topic was not available from the Halifax-Dartmouth court.

samples had a prior or current file in the child welfare court. Compared to older juveniles, larger percentages of younger persons in the juvenile courts of Toronto, Winnipeg and Vancouver had such a file.

Some researchers have hypothesized that the youth's "activity status" -- whether the juvenile is "active" in either school or employment -- impacts on court processing (for example, on dispositions, see Kueneman and Linden, 1983). In the courts in which the upper age limit was 16 years in 1981-82, the proportion of the sample who were neither in the labour force nor attending school was small -- 8% or less in the Halifax-Dartmouth, Toronto and Alberta courts. In jurisdictions with an older age limit, from one-fifth (Winnipeg and Vancouver) to one-third (the Quebec courts) were neither in school nor working. These "inactive" persons include those who were unemployed or engaged in illegitimate occupations such as prostitution, truants, or persons who resided in treatment or correctional institutions. Significant differences by age were evident in Montreal and Winnipeg. The 16 and 17 year olds were slightly, in the case of Montreal, and considerably, in Winnipeg, more likely to be inactive than were younger accused.

Thus, despite substantial differences in the demographic and social characteristics of the samples referred to juvenile court, there were few consistent variations by age in the characteristics of the accused. Most of the age differences that did occur suggested that it was the younger court-referred group who were more likely to be from an unstable home situation.

Prior Record

The relationship between age and prior record would generally be expected to be a positive one: the older the juvenile, the more time he or she has had to accumulate court referrals and findings of delinquency. We anticipated that there would be an incremental increase by age in the percentage of juveniles who had earlier court contact and past findings of delinquency (i.e., convictions).

In fact, there was not a significant relationship between age and the existence of prior court referrals in Halifax-Dartmouth, Toronto, the Edmonton circuit courts, Vancouver and Kelowna.[1] However, in Montreal, Winnipeg, and Edmonton there was a significant positive association between age and prior referrals.

There were fewer juveniles who had an earlier conviction than who had prior referrals to court. As discussed later in this report, in some courts a considerable proportion of youth referred to court were not adjudicated delinquent. This factor accounts for the lower proportions of juveniles who were found delinquent than who had had prior court contact: from 22% to 40% of the samples had prior findings of delinquency, but 26% to 55% had been previously referred to juvenile court.

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[1]The chi-square did not reach the $<.05$ level in any of these sites. However, in Vancouver, $p. <.10$ when age was categorized as 12-14 year olds versus 15-16 year olds; 70% of the former and 59% of the latter had a prior court referral. Furthermore, low numbers in the Eastern Townships may have prevented the chi-square statistic from reaching significance (gamma = .23).

There was no relationship between age and the existence of prior findings of delinquency in Toronto, the Edmonton circuit courts, and Kelowna. In Halifax-Dartmouth, although there was no significant relationship according to the chi-square test, the strength of association measure indicated a weak inverse relationship between age and past convictions.[1] In Vancouver and the Eastern Townships, the relationships were also not significant, but the strength of association measure showed a very weak, but positive association between age and prior findings.[2]

The expected relationships between age and prior record were found in Montreal, Winnipeg and Edmonton. In these three courts, the older age groups were significantly more likely than younger persons to have been convicted of a delinquency in the past (Figure 3.1). In each court, the oldest age category was two to three times as likely as the youngest group to have had a prior finding of delinquency.

If only the juveniles with one or more prior conviction are examined, we can ascertain whether the characteristics of their prior record show any relationship with age. The number of prior findings, the seriousness of the prior charges (measured by whether the accused had had an indictable offence in the past), and whether a past disposition was still in effect (e.g., the accused was still on probation at time of entry into the sample) can be examined for the five courts where the sample size of recidivists was

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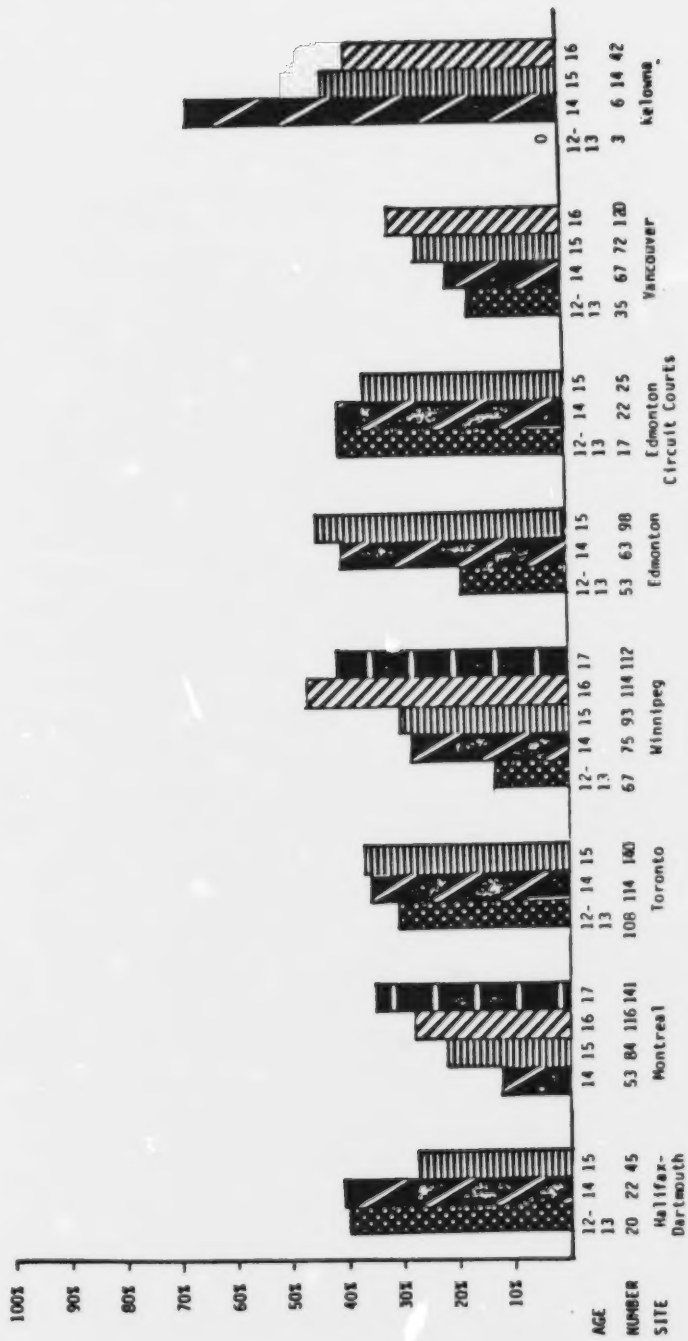
[1]Gamma = -.24
[2]Gamma = .20 and .17, respectively

Figure 3.1

PERCENT OF EACH AGE CATEGORY WITH PRIOR FINDINGS OF DELINQUENCY



sufficiently large for analysis. These courts were Montreal, Toronto, Winnipeg, Edmonton and Vancouver.

In Vancouver, only the number of prior findings was associated with age. Sixteen year olds had a longer prior record (a larger number of prior convictions) than did persons who were 12 to 15 years of age: 40% of the oldest age group had four or more earlier convictions, in contrast to only 16% of the 12 to 15 year olds. In the four remaining courts, no associations between age and the number of past findings were found.

Only one association was apparent between the seriousness of the prior charges and age. In Montreal, the 17 year olds were more likely to have had a past indictable offence than the younger ages; 92% of the 17 year old recidivists had an indictable offence history, compared to 67% of the 16 year age group, and 77% of the 14 and 15 year olds.

Montreal data also exhibited a significant relationship between age and whether the accused had an outstanding prior disposition. A much lower proportion of the 17 year old recidivists had an ongoing disposition than did the 14 to 16 year olds.

Therefore, in two courts there was some association between the age of the recidivists and the characteristics of the offence history. in Vancouver, the oldest age group had a longer prior record; in Montreal, the oldest group were more likely to have had a "serious" prior record but were less

likely to be still involved in an earlier sentence from the juvenile court.

In summary, although the anticipated patterns in the relationship between prior record and age were borne out by the data from some courts, the age differences were non-existent or weaker than expected in most jurisdictions.

The Characteristics of the Current Charges

The relationships between the age of the accused and the number and type of charges that brought the young persons to court during the Study period show results that are contrary to popular wisdom.

There was no increase by age in the mean or median number of current charges (Figure 3.2). In four courts (Toronto, Winnipeg, Edmonton and Vancouver), the oldest age group had a lower mean number of charges than the youngest age group, although this difference was not statistically significant.[1] The median number of charges was either constant or decreased very slightly and insignificantly by age in most of the courts under investigation.

There were some overall variations by court in the number of charges laid against the samples. Montreal juveniles had a larger mean and median number of charges than did the other samples, perhaps in part because of the practice there of routinely laying a conspiracy charge in conjunction with the

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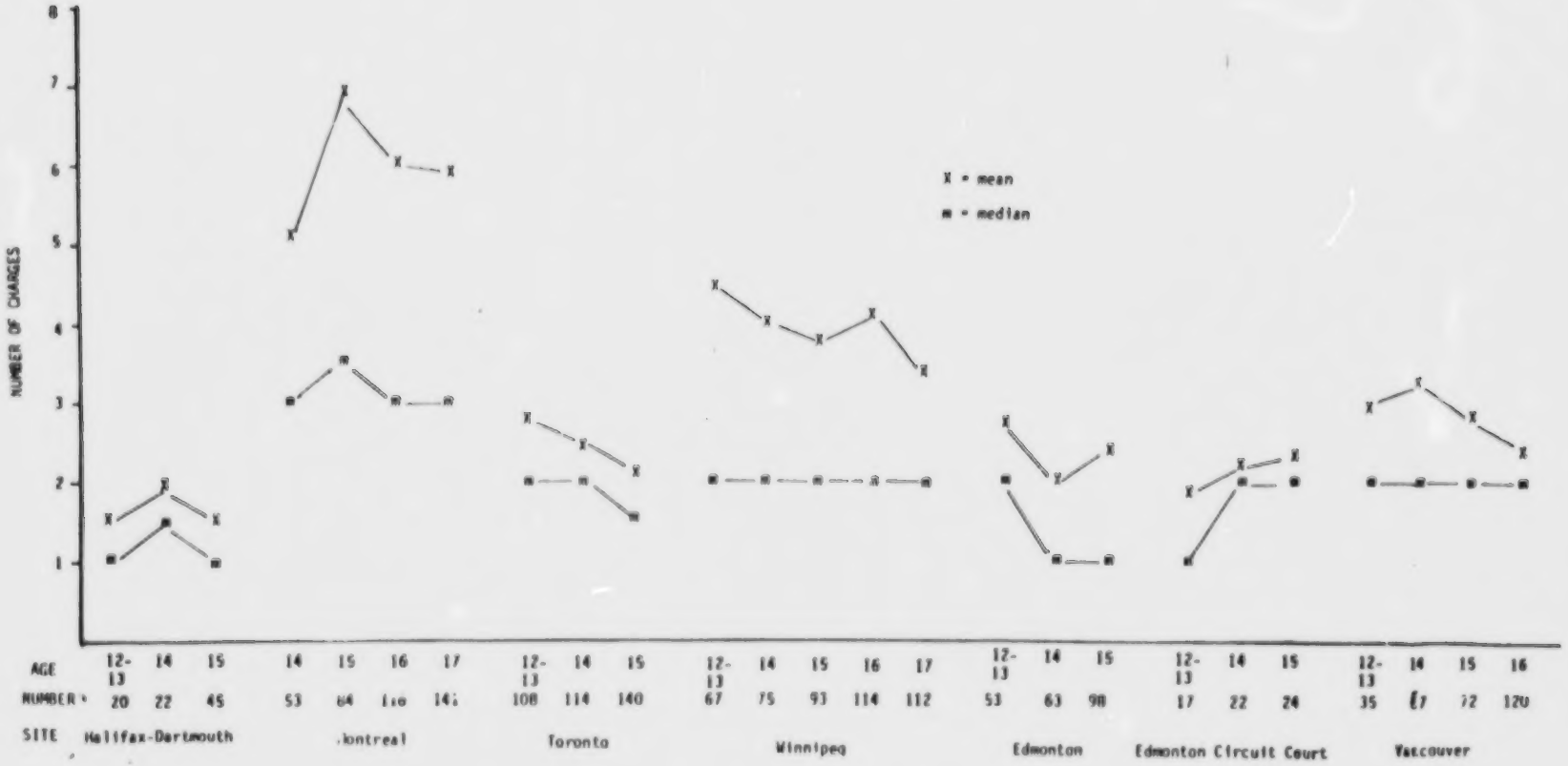
[1] In Montreal and Vancouver, the percentage of accused with only one current charge rose with age (chi-square $p < .05$). It may be that the type of charges associated with each age group affected this result. As is discussed below, in these courts the older youth were disproportionately accused of offences other than "offences against property". It is possible that the general practice of laying 2 charges (theft and possession, for example) in such offences may have produced the finding that younger juveniles were more likely to be charged with more than one offence.

Figure 3.2

MEAN AND MEDIAN NUMBER OF CHARGES BY AGE



substantive charge when more than one juvenile was involved in the offence. (The conspiracy charge was almost always withdrawn by the Crown during court proceedings.) Other than Montreal, the median number of charges per accused was between one and two, for the majority of sites and ages.

For ease of presentation in this report, the court process is treated as though the accused had only one set of charges. In reality, juvenile court processing was more complex for a subset of youth, who had several sets of charges which began independently and which may or may not have "merged" into one "case" or court process. By definition, such juveniles had more than one charge. Because some courts, such as Montreal and Winnipeg, had longer time delays between the first and last hearing, the samples from those sites had more opportunity to collect additional charges. This factor prevents jurisdictional comparisons on this dimension. Age was not related to the number of "sets of charges" in any of the Study courts (Figure 3.3).

One charge was selected to represent the current charges of the accused young person. This charge is termed the "most serious offence" because the selection was based on the most serious adjudication and disposition, and if two or more current charges had the same "most serious" disposition, the charge with the longest sentence length prescribed by the Criminal Code was selected.[1]

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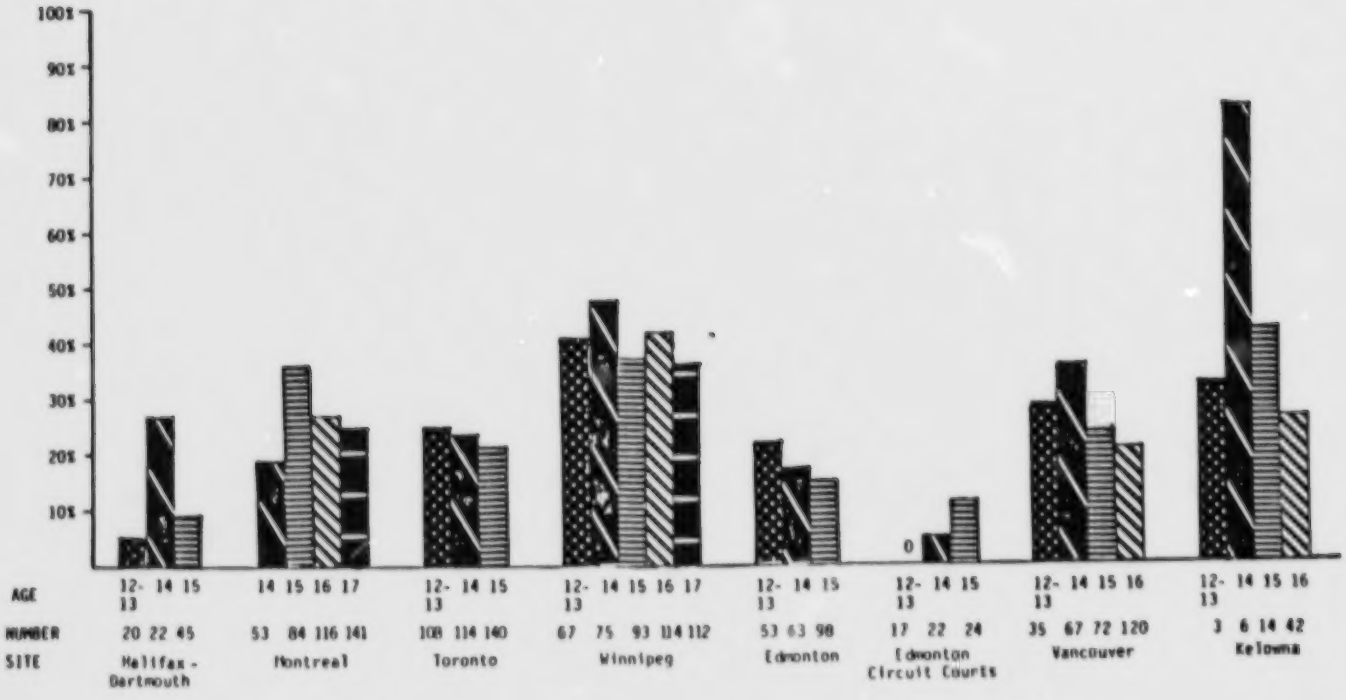
[1]This procedure is the same as that used by the Juvenile Court Program, Canadian Centre for Justice Statistics. For a detailed description of the methodology used to represent a multi-charge juvenile's offences, see Moyer and Carrington, 1983.

Figure 3.3

PERCENT OF EACH AGE CATEGORY WITH MORE THAN ONE SET OF CHARGES



Persons with a "most serious" property charge predominated in all courts (Figure 3.4). From two-thirds to almost 90% of the samples had an offence against property selected as their most serious charge. In the majority of courts (Halifax-Dartmouth, the Eastern Townships and the Alberta courts were the exceptions), there was a negative relationship between age and property-related charges. That is, as age increased, the probability that the accused had an offence against property as his/her most serious charge significantly decreased.[1]

The finding that older juveniles are less likely to be accused of property offences is amplified by findings which show that the older the juvenile, the lower the likelihood that he or she appeared in court on a most serious charge of break and enter (in Montreal, Winnipeg and Vancouver) or theft under $200 (Toronto). (These data are not shown in figure form.)

Offences against the person, such as assaults and robbery, comprised small proportions of the most serious charge in all courts but those in Quebec. In Montreal, 23% of the sample had a person offence selected as the most serious charge, and 19% of the small Eastern Townships sample were accused of such offences. Elsewhere, from 2% to 10% of the accused were charged with a person offence. In Toronto, 16% of the 15 year olds and 7% of the 12 to 14 year olds were charged with such an offence, but in none of the

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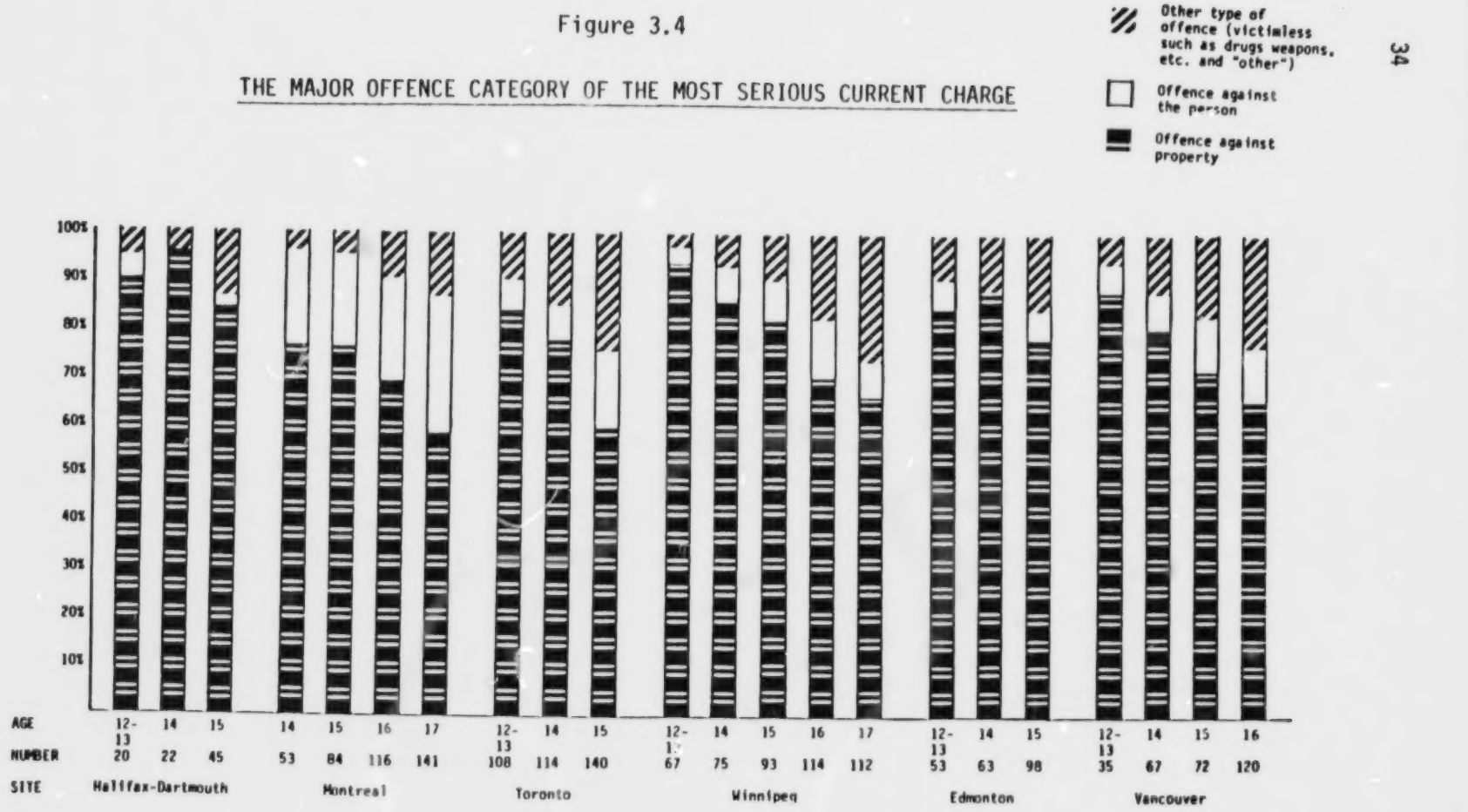
[1]Also, in several courts, younger juveniles were charged with, on average, a larger number of offences against property than were their older peers.

Figure 3.4

THE MAJOR OFFENCE CATEGORY OF THE MOST SERIOUS CURRENT CHARGE



other courts was there a significant difference in the proportion of person charges in each age group.

Montreal also had a relatively high rate of indictable person offences (robbery especially), at 20% of the sample there. (Data not shown in figure form.) In courts outside of Quebec, from 0% to 5% of the samples had an indictable person offence selected as the most serious charge. There was no association between age and indictable offences against the person in any of the Study courts.

The third category of offences include all charges not related to person or property. Most of such charges would be classified as "victimless", for example -- drugs, weapons, violations of court orders, and public order infractions. From 9% to 34% of the samples had such "other" offences selected as their most serious charge. In Montreal, Toronto, Winnipeg and Kelowna, the oldest age groups were significantly more likely to have had an offence of this kind chosen to represent their current charges.

Other than the relationships already mentioned regarding break and enter and theft under $200, more specific breakdowns of the nature of the delinquency of the most serious charge showed no patterns by age.

It is sometimes assumed that younger persons become more versatile in their offending as they get older -- that is, older juveniles are charged with

offences from more than one major offence category (e.g., person and property charges, property and victimless charges, etc.) There was no significant variation in the percentages of so-called versatile offenders by age, other than in Winnipeg where the 12-13 year olds had a lower likelihood of having charges from two or more offence categories than did the 14 to 17 year olds. In no court were the 16-17 year olds significantly more likely to be versatile offenders.

The seriousness of the charges laid is a concept that can be operationalized in a number of ways, for example: by the personal or societal loss or harm done, by the public's perception of the seriousness of the offence, or by the way in which the adult criminal justice system in Canada processes the offence. For the purpose of this analysis, the value of goods stolen in property offences and whether the charge was an indictable offence (according to the Criminal Code) were selected as measures of the seriousness of offences.

Examining the magnitude of thefts by juveniles, there was an increase by age in the median dollar value of the property stolen only in Halifax-Dartmouth and Montreal.[1] This increase may be due in part to a

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[1]These data are restricted to offences related to property on which the accused was found guilty or delinquent and excludes those which were withdrawn, stayed, etc.

greater predilection among older juveniles for stealing cars, which tend to be of considerably more value than the average haul from a break and enter or other theft.

Also of interest is the difference among courts in the median value of goods stolen in property offences. In Toronto, the median value of stolen goods was $49, in sharp contrast to the Quebec courts and Kelowna, where the median dollar value was over $500.[1] In the other courts, the median dollar value of the stolen property was between $100 and $128. The relatively low values found in the Toronto sample suggest that the theft offences referred to court there may have been handled informally by the police or diverted by the screening agency in other communities.

The Criminal Code of Canada classifies offences into three groups: indictable, hybrid (where the Crown can elect to proceed by way of indictment or summarily), and summary convictions. Offences which are proceeded with by way of indictment in adult criminal courts are generally considered more serious than hybrid or summary offences. In the juvenile court samples, the great majority of indictable offences were break and enter and other thefts.

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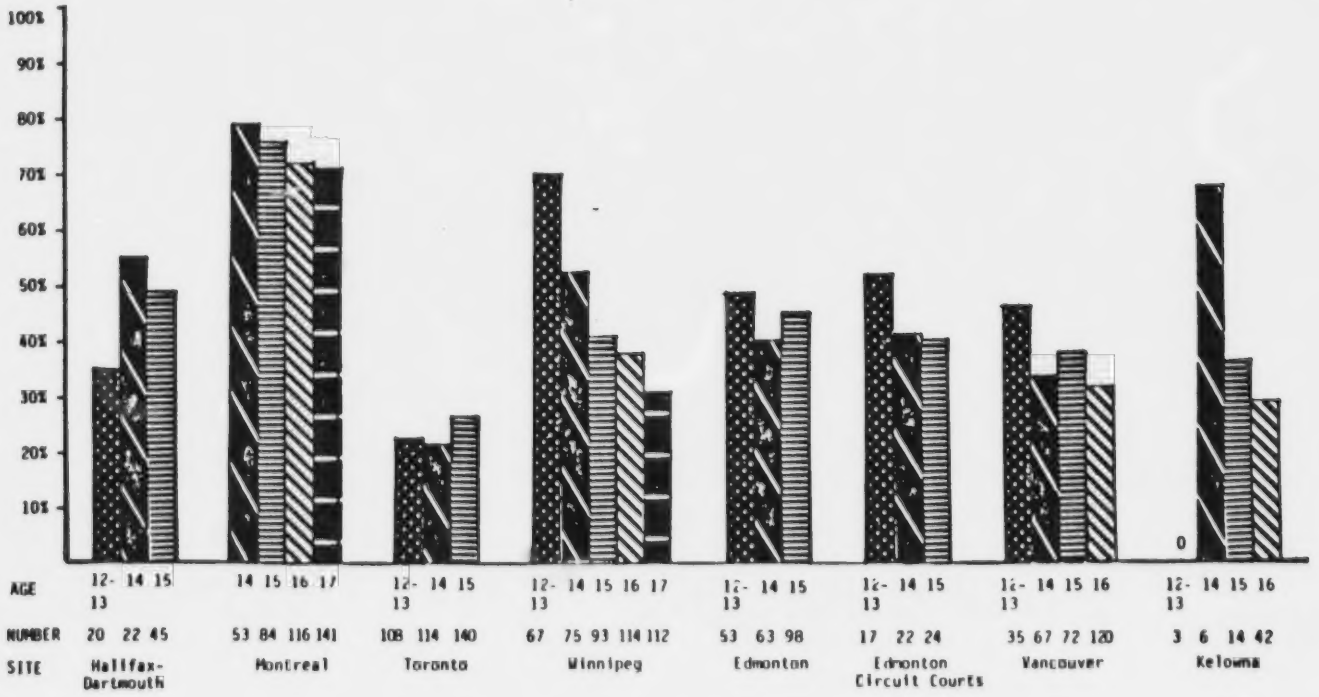
[1]Only 4% of the Montreal cases had a charge of theft under $200 selected as their most serious current charge, a lower percentage than any other court. Eleven percent of Eastern Townships and Kelowna cases, but 27% of the Toronto sample, were charged with theft under $200.

There were large jurisdictional variations in the percentage of young persons with an indictable offence as their most serious current charge. In Toronto, only 23% of the sample were "indictable accused". Other than in the Quebec courts where about three-quarters of the caseloads had an indictable most serious offence, the proportions varied from about one-third (in Vancouver and Kelowna) to just less than one-half (in Halifax-Dartmouth).

In none of the Study locations were older juveniles significantly more likely to be accused of an indictable offence (Figure 3.5). A marked and statistically significant downward trend occurred in Winnipeg. There was therefore no positive association between age and the seriousness of the current charge and in one court the relationship was a strongly negative one.

Figure 3.5

PERCENT OF EACH AGE CATEGORY WITH AN INDICTABLE OFFENCE AS THE MOST SERIOUS CURRENT CHARGE



Summary

The socio-legal characteristics of the National Study samples have been described in relation to the age of the accused young person. There were fewer differences by age than were initially hypothesized. This summary section looks at the findings of the analysis of the relationships between the age and other characteristics of the accused for each court location.

In the courts with a small sample size, few relationships were apparent. In both the Eastern Townships (54 cases) and the Edmonton circuit courts (64), there were no significant relationships between age and socio-legal factors. In Halifax-Dartmouth (87 cases) and Kelowna (65), there were very few statistically significant associations. With small samples, such non-significant results cannot be interpreted as meaning that age is definitely not related to other characteristics. This is particularly true when the measure of the strength of association between the two variables (i.e., gamma) shows a weak association.

The remainder of this summary outlines the findings in which some confidence can be placed.

In Halifax-Dartmouth, a larger proportion of 14 year olds were female than were 12-13 year olds or 15 year olds. The older accused youth were more likely to have been adjudicated delinquent on a property charge involving a

higher dollar value than were younger juveniles. Non-significant but weak associations were found between age and the existence of prior convictions, but in the opposite direction of the findings elsewhere: a larger proportion of younger juveniles had a prior record when compared to their older peers.

In Kelowna, the 16 year olds had more "conventional" home situations (i.e., they lived with both parents) than did the 12 to 15 year olds. The 16 year olds were also more likely to have had a victimless or "other" offence selected as their most serious charge.

The Edmonton data, in spite of a sizeable sample (214 cases), showed only one significant relationship: 14 and 15 year olds were more likely to have had a prior record than the 12 and 13 year olds.

The Vancouver sample showed three relationships between age and social variables: younger juveniles were disproportionately female, in the care of the child protection agency, had had past or current involvement with the child welfare court. Although there was only a weak association between age and the existence of a prior record, the number of past findings of delinquency was related to age. Sixteen year old recidivists had a longer offence history than did the 12 to 14 year olds with a prior record. Property offences -- especially break and enter -- were least often found among the oldest age group in Vancouver.

In Toronto, age was only infrequently associated with the socio-legal variables available to this research. Younger juveniles had been involved with the child welfare court more often than older youth. The incidence of property offenders (most notably, those accused of theft under $200) decreased with the age of the accused, while the percentage of persons with a victimless/"other" most serious charge increased by age. A significantly larger proportion of 15 year olds were charged with offences against the person compared to the 12 to 14 year olds. However, there was no relationship between age and indictable offences against the person.

The younger persons in the Montreal sample were disproportionately female. The 17 year olds resided in two parent homes in larger proportions than did younger persons. Both 16 and 17 year olds had a slightly greater likelihood of being "inactive", neither attending school nor working, than did their younger counterparts. There was a positive association between age and the existence of a prior record in Montreal. Seventeen year olds with past convictions also had a more serious offence history (i.e., at least one indictable offence) than did the other recidivists. On the other hand, it was the 14 to 16 year olds who were more likely to have had an ongoing disposition from an earlier conviction. Although there was a positive relationship between age and the value of goods stolen in theft offences, there was no association between age and having a current indictable charge. There was an increase by age in the percentage of Montreal accused charged with victimless/"other" offences, and a decrease in the incidence of property offences.

In Winnipeg, there were several associations between age and social variables: the 12 and 13 year olds were more likely to be of Native origin, to be outside the legal custody of their parents, and to be in the files of the child welfare court than were older accused youth. A larger proportion of the 16 and 17 year olds were inactive in school and work. The older the juvenile, the more likely he or she had prior findings of delinquency, and the less likely he or she was currently charged with a property offence. As was found in several other courts, the percentage of young persons charged with a victimless/"other" offence increased with age. Unlike any other court, there was a striking decrease with age in the proportion of the sample with an indictable charge selected as their most serious offence.

In summary, social and demographic variables were rarely related to age. Those that did show an association suggested that the older juveniles were from more "stable" backgrounds than younger persons.[1] One or more legal variables -- our measures of prior record[2] and the nature of current charges -- were associated with age in all of the large city courts. However, the number of current charges and their seriousness (as measured by whether the most serious charge was indictable) were never associated with age. Although property offenders dominated the caseloads of all courts, in several sites

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[1]Other than in Winnipeg and Montreal, where 16-17 year olds were less likely to be attending school or employed.

[2]In the courts of Montreal, Winnipeg and Edmonton, there was a positive and significant association between age and the existence of prior convictions.

there was a decrease by age in the percentage of persons charged with offences against property. It also appeared that the incidence of victimless offences tended to increase with age. Offences against the person occurred rarely in the samples outside of Quebec, and were not related to age other than in Toronto.

Chapter 4: THE RELATIONSHIP BETWEEN AGE AND THE COURT PROCESS

Introduction

The relationship between the age of the accused young person and the nature of the court processes experienced are described in this chapter. The analysis will again explore whether older juveniles were substantially different from younger persons in their processing by the juvenile courts, and whether there were trends by age occurring in the multi-court samples. As was done in Chapter 3, differences among courts in key aspects of court functioning are also highlighted in order to illustrate the regional variations in the administration of justice for young persons.

Included in this analysis are: the use of detention; the in-court experiences of the samples, such as the nature of plea and the presence and type of legal representation acting for the accused; the use of social and medical/psychological reports; the length of the court process; and case outcomes.

The Use of Pre-disposition Detention

Detention occurred most frequently at the time of arrest. In the majority of cases, the initial decision to detain prior to the court process was made by the police -- although in Montreal and Winnipeg, there was an additional layer of screening undertaken by the youth delegates of the Directors of Youth Protection (in Montreal) and detention centre personnel (in Winnipeg). Even though the Study courts differed in their adherence to the judicial interim release provisions of the Criminal Code, detained youth typically appeared before a juvenile court judge within 24 hours of detention or as soon as possible thereafter.

Jurisdictions varied in their use of pre-dispositional detention.[1] (See Table 4.1.) Forty percent or more of the caseloads in Montreal (40%), Winnipeg (45%) and Edmonton (44%) were detained. Approximately three out of ten Toronto and Vancouver young persons experienced a stay in custody. Lower percentages of the samples were detained in the smaller courts.[2]

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[1]Brief detention stays where the accused was released prior to court have been treated as if the juvenile was not detained, because Montreal data on pre-court release was not available. If pre-court release had been defined as detention, over 60% of the Winnipeg sample would have been classified as experiencing detention. Persons who were already in detention at the time of current charges because of prior charges or committals to training school have been eliminated from the data in Table 4.1.

[2]The low rate of detention in Halifax-Dartmouth, the Edmonton circuit courts and Kelowna may be related to the unavailability of juvenile detention centres in those communities.

These detention rates indicate that the rate of pre-dispositional detention was not closely related to the provincial maximum age.[1]

Only in Edmonton was there a significant relationship between age and pre-dispositional custody: 32% of the 12 and 13 year olds, but 49% of the 14 and 15 year olds were placed in pre-trial custody.

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[1]That is, Edmonton had a similar rate of detention as Montreal and Winnipeg, even though the maximum age was 16 in Edmonton and 18 in the two latter cities. Vancouver, with an upper age limit of 17, had a similar rate as Toronto, where 16 year olds were dealt with as adults at the time of the Study.

Table 4.1

PERCENT OF EACH AGE CATEGORY WHO WERE DETAINED*

FEDERAL OFFENDERS, BY SITE

	Halifax-Dartmouth	Montreal	Eastern Townships	Toronto	Winnipeg	Edmonton	Edmonton Circuit Courts	Vancouver	Kelowna
12 years)				25%	44%	26%	0%	20%	0%
)	20%	N.A.	33%						
13 years)				24%	49%	35%	0%	38%	0%
14 years	18%	34%	71%	30%	52%	44%	5%	37%	50%
15 years	11%	38%	33%	29%	46%	51%	8%	25%	14%
16 years	N.A.	43%	40%	N.A.	42%	N.A.	N.A.	28%	14%
17 years	N.A.	42%	12%	N.A.	42%	N.A.	N.A.	N.A.	N.A.
Total	15% (13)	40% (143)	33% (18)	28% (101)	45% (196)	44% (95)	5% (3)	30% (87)	17% (11)
Gamma		.08		.07	-.08	.25		-.10	
Chi-square	-	1.424	-	1.156	2.648	5.399	-	3.984	-
df		3		3	5	3		4	
p		N.S.		N.S.	N.S.	N.S.		N.S.	

*
Accused who were detained but released prior to their first court appearance are treated as "not detained" for purposes of jurisdictional comparability. Both the Montreal and Winnipeg samples experienced "pre-court release" but data on this phenomenon was not available in Montreal.

Note that age is significantly related to detention in Edmonton if 12-13 year olds are compared to 14-15 year olds (chi-square $p < .05$).

"-" in this and subsequent tables is to be interpreted as the chi-square statistic is not a valid test because over 20% of the cells had expected frequencies of less than 5.

In-court Experiences

In this section, we describe the relationship between age and aspects of court operations under the J.D.A. that may be affected by the proclamation of the Young Offenders Act, such as the presence of legal counsel for the accused, the nature of the pleas made, and the incidence of trials.

The issue of legal representation for the sample was operationalized by a variable with three categories: the accused was never represented by retained counsel or duty counsel (public defenders in Montreal) during his or her court process; the accused had duty counsel or a public defender present at one or more hearing, but a retained lawyer never appeared; and, the accused was represented by retained counsel at one or more hearing during the Study.[1]

There were relationships between age and the presence or type of legal representation in several courts:

- In Halifax-Dartmouth, when compared to the middle age category (the 14 year olds), the 12-13 year group and the 15 year olds were more likely to have retained counsel.[2]

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[1]Note that "retained counsel" was defined as including lawyers retained privately by the juvenile (or the parents) and lawyers who were retained through the province's legal aid plan.

[2]Chi-square $p < .07$

- The Edmonton and circuit court samples who were 15 years of age were significantly more likely to have had some type of defence counsel -- either duty counsel or a retained lawyer -- than were the 12 to 14 year olds.
- In Vancouver, a larger percentage of the 12-13 year old group (44%) than the 14-16 year olds (19% to 28%) were never represented by counsel.

On the other hand, there was no relationship between age and the presence or type of legal representation in Montreal, the Eastern Townships, Toronto, Winnipeg or Kelowna.

There were large jurisdictional variations in the presence and type of counsel. Over 90% of young persons in the Quebec sites and 99% of the Toronto cases had legal counsel at some time during their court process, as did approximately three-quarters of the Edmonton and Vancouver samples. At the other end of the continuum, only one-quarter or fewer of the Halifax-Dartmouth, Edmonton circuit court, and Kelowna samples received in-court assistance from a legally trained advisor. About one-half of the Winnipeg juveniles had a lawyer representing them.

Overall, retained counsel was most frequently found in Vancouver (58% of that sample), followed by Winnipeg (44%). In the Quebec courts, public defenders -- court-based lawyers specializing in juvenile matters and on the staff of the provincial legal aid organization -- represented two-thirds or more of the accused young persons.

The ratio between the number of times legal counsel (of any type) was present and the total number of hearings of each juvenile is another summary variable measuring the extent of legal representation available to the 1981-2 Study sample. There was no direct correlation with age in any court (Figure 4.1). In both Halifax-Dartmouth and Edmonton, the relationship appeared to be bimodal, with both the youngest and the oldest age categories having a larger proportion of hearings at which counsel was present than did the 14 year olds.

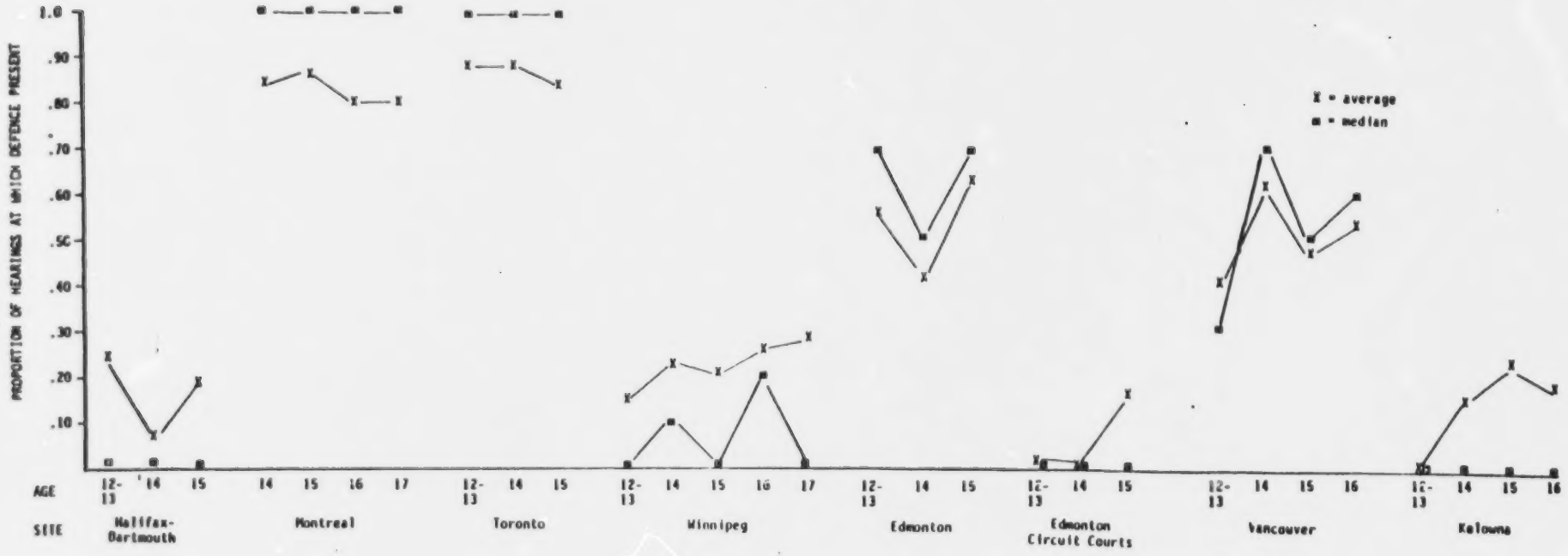
The type of plea made often has a considerable impact on the court process. A not guilty plea usually sets in motion adjournments to obtain counsel and to set a date for a trial. A guilty plea tends to be dealt with in one or two hearings. It might be assumed that older juveniles plead not guilty more frequently than do their younger counterparts as a result of greater sophistication regarding the court process.

The type of plea was summarized by a variable which classified the sample into three categories: the accused was never observed to have made a plea of any kind on charges that arose during the site's sample period; the accused made one or more guilty plea (or pleaded guilty on some charges and made no plea on others), but never pleaded not guilty; and, the juvenile pleaded not guilty on one or more charge.

Factors other than age seemed to be operating in the decision regarding the type of plea. Other than in Winnipeg, there was no relationship between

Figure 4.1

PROPORTION OF HEARINGS AT WHICH DEFENCE COUNSEL WAS PRESENT



the type of plea and age. In that court, proportionately fewer 17 year olds pleaded not guilty, and a larger percentage made no plea at all on sample charges.

About one-half or more of juveniles in all jurisdictions pleaded guilty to some charges. The percentage who pleaded not guilty to at least one charge ranged from a low of 7%, in Toronto, to a high of 39%, in Montreal.

However, not all not guilty pleas proceeded to trial. The proportions of the samples who went to trial were somewhat lower -- a range of 0% to 24%[1] -- than the proportions who pleaded not guilty. This discrepancy between not guilty pleas and trials is the consequence of changes in the nature of the plea prior to the trial hearing. It was not uncommon -- particularly in Montreal, where 39% of the cases pleaded not guilty whereas only 12% went to trial -- for defence counsel to enter an initial plea of not guilty which was later altered to guilty.

Not guilty pleas that proceed to a full trial with witnesses generally consume more court time and take more hearings than do guilty pleas. Trials require the presence of more personnel (almost always defence counsel and witnesses, especially police officers), and place a burden on court-room space and the scheduling of the time of judges, Crowns and defence. Some have

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[1]Trials were most common in Vancouver, where 24% of the sample had one or more current charges go to trial. In other courts with a maximum age of over 16 years, trials were much less frequent: about 12% in the Quebec courts, 7% in Kelowna, and only 4% of Winnipeg young persons went to trial. Elsewhere, 6% or fewer of the samples went to trial.

anticipated that the number of trials in the youth court would rise with the proclamation of the Y.O.A., partly because of the Act's emphasis on legal representation and partly because of the uniform maximum age.

There were no significant differences by age in the percentage of cases which went to trial. However, there was some indication that 15 year olds in Edmonton were more likely to go to trial than were the 12-13 year olds (9% and 0%, respectively, went to trial).

Social and Medical/Psychological Reports

The Young Offenders Act establishes procedures to be used in the preparation and introduction of pre-disposition reports (s. 14) and medical-psychological reports (s. 13). In some instances (e.g., transfers to adult court and committals to custody), pre-disposition reports are mandatory; in all cases these reports can be prepared only after the young offender has been found guilty of an offence.

At the time of the research in 1981-2, the Study courts differed in their practices with regard to the timing of the preparation of pre-disposition reports and the method of introduction to the court. Some jurisdictions, such as Vancouver and Winnipeg, had reports prepared automatically prior to the first appearance of the accused.[1] In other courts -- Toronto and Montreal, for example -- the reports were prepared following adjudication at the court's request. In Vancouver, pre-disposition reports were always orally introduced by the probation officer, whereas elsewhere the usual practice was to present a written report.

Written reports were most often found in the Eastern Townships and in Winnipeg, where over two-fifths of the samples had a report introduced to, or discussed by, the court during court observation. One-tenth or fewer of the

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[1]In Winnipeg, this practice ended in the fall of 1981, in the later stages of data collection for this research. With the elimination of these "pre-court inquiries", reports were only prepared after a finding of guilt in response to a request from the court (Bala and Corrado, 1985).

Halifax-Dartmouth, Toronto, the Edmonton circuit courts, and Kelowna had a written pre-disposition report.

Only one court showed a significant age variation in the introduction of written pre-disposition reports. In Montreal, a lower proportion of 16 and 17 year olds had a written report, when compared to the younger accused. A similar trend was found in the Eastern Townships, although the small sample from those courts precludes any conclusions. Conversely, there was a direct association between age and pre-disposition reports in the Halifax-Dartmouth courts, but again the sample size prevents generalization to the population.

As mentioned above, oral reports were the norm in Vancouver, where 88% of the sample had such a report. No age differences were evident.

Psychological reports were much less frequently found than were pre-disposition reports. According to this survey of court practice, from 2% to 9% of the samples had such a document introduced to the court. Twelve and thirteen year olds in Toronto were more likely to have had a psychological report than were their older counterparts. In Vancouver, the findings were similar, but the relationship was not significant at the .05 level.[1]

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[1]Chi-square $p < .10$

The Length of the Court Process

The relationships between the age of the samples and the total number of hearings and juvenile appearances per case, the total number of courtroom minutes consumed by the case, and the number of days between the first and last court hearing are examined in this section.[1]

Differences among the courts in the number of hearings per case are immediately apparent on Figure 4.2. Winnipeg cases had many more hearings than did other courts -- an average of 6.6 hearings per case, compared to 1.3 to 3.5 hearings in the other Study sites. Organizational factors, especially court-specific scheduling practices, help to account for the larger number of hearings in Winnipeg. Adjournments for "procedural" reasons (e.g., to transfer the case to another type of court docket, or for an "in-custody review" of a detention order) occurred very frequently in that court.

According to the analysis of variance undertaken on the data, in none of the Study courts was there a significant increase by age in the mean number of court hearings. In fact, in Winnipeg, 17 year olds had fewer hearings than did the 12 to 16 year olds: 47% of the 17 year olds, but almost two-thirds (65%) of the 12 to 16 year age group, had four or more hearings.[2] In the

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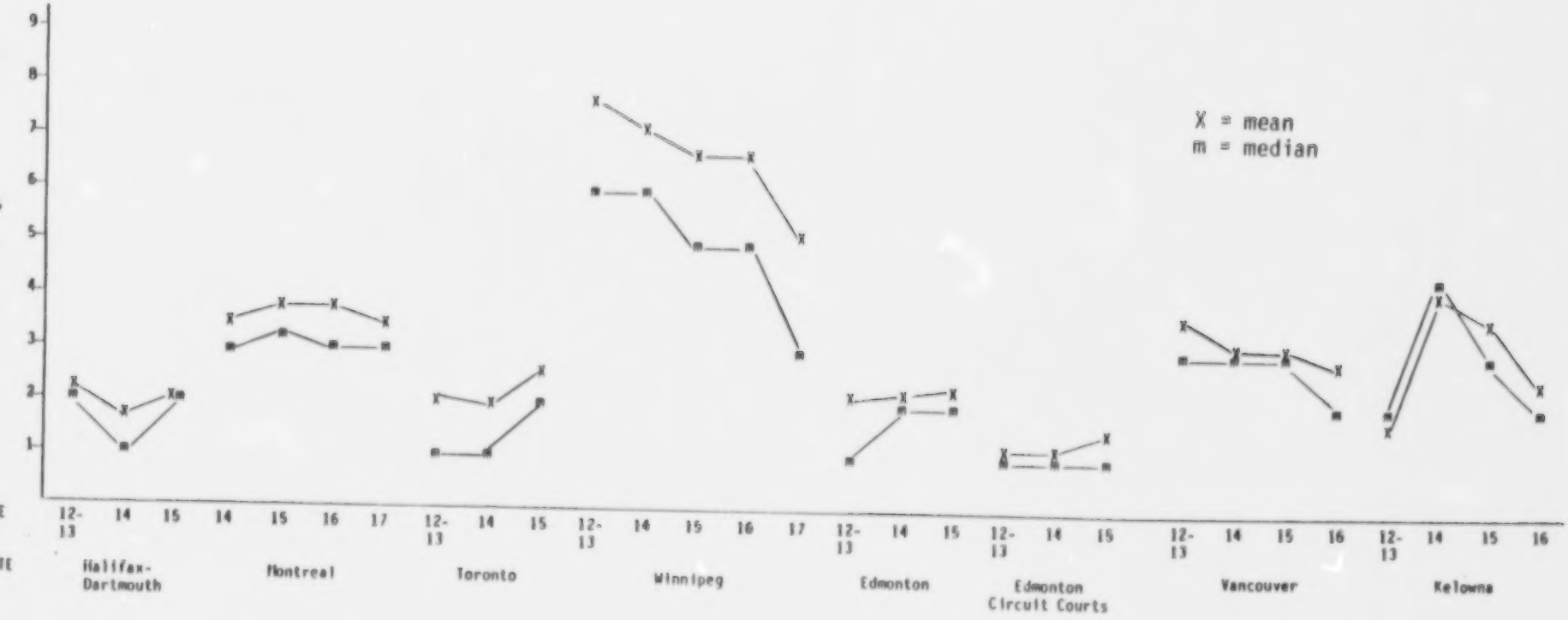
[1]The data on the number of hearings and courtroom minutes required per case control for the presence of co-accused at the hearing.

[2]The chi-square $p < .01$, when Winnipeg 12-16 year olds were compared to the 17 year olds.

Figure 4.2

MEAN AND MEDIAN NUMBER OF HEARINGS TAKEN TO PROCESS TO JUVENILE'S CASE BY AGE



courts with an older maximum age of 17 or 18 years, the 16 or 17 year olds either had an identical number of hearings, or had slightly fewer hearings, than did their younger peers in the same court.

There were fewer court appearances by the accused than court hearings in most courts.[1] The most common instances in which a hearing was scheduled on the court docket but the juvenile did not make an appearance were procedural and dispositional adjournments where the presence of the juvenile was not required. Less frequent were situations in which the young person was scheduled to appear, but for some reason (e.g., was not notified of the court date or deliberately missed the hearing) did not.

There was less jurisdictional variation in the number of appearances by the accused than in the number of scheduled hearings. (Compare Figure 4.3 to Figure 4.2) The mean number of juvenile appearances per case varied between 1.3 and 4.2, lower than the means of 1.3 to 6.6 hearings per case. The age distribution of the number of juvenile court appearances by the accused was similar to that of the number of hearings, but the variation by age in the number of appearances was less pronounced in Winnipeg. In the Study courts, older juveniles did not make more court appearances than did younger persons.

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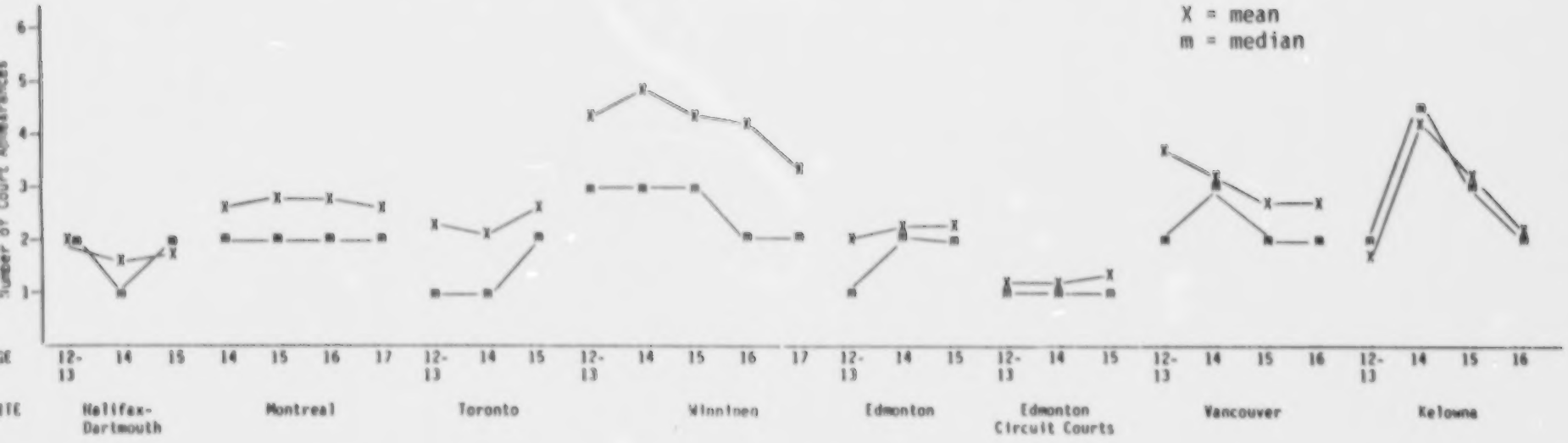
[1]The juvenile was absent in 37% of Winnipeg's hearings and in 25% of those in Montreal. In the remaining courts, the proportion was about one-tenth.

Figure 4.3

MEAN AND MEDIAN NUMBER OF COURT APPEARANCES MADE BY THE JUVENILE BY AGE



We also investigated the possibility that age was related to the length in minutes of the juvenile's court hearings -- that is, the total number of minutes of court time required to process the case.[1] On Figure 4.4 are shown the mean and median number of minutes of court time required to deal with each age group. There were no significant differences by age in the mean number of courtroom minutes taken for case processing.

Jurisdictional differences did occur in the minutes of processing time required, but these differences did not reflect the variations among the courts in the number of hearings per case. In Winnipeg, which had a median number of hearings of 5 per juvenile, the median number of minutes required to process the sample was only 13 minutes, indicating that many hearings were very short. In Vancouver, where a substantial proportion (24%) of cases went to trial, the mean courtroom time required was 43 minutes, although the median was 17 minutes; this difference between the mean and median suggests that some cases were very long. In other communities, the median number of minutes ranged from 6 to 23.

The number of days between the first and last hearing of the juvenile's most serious charge provides information on the time delays that occurred in juvenile court processing at the time of the research. The number of days from first to final hearing can be affected by many factors, including the

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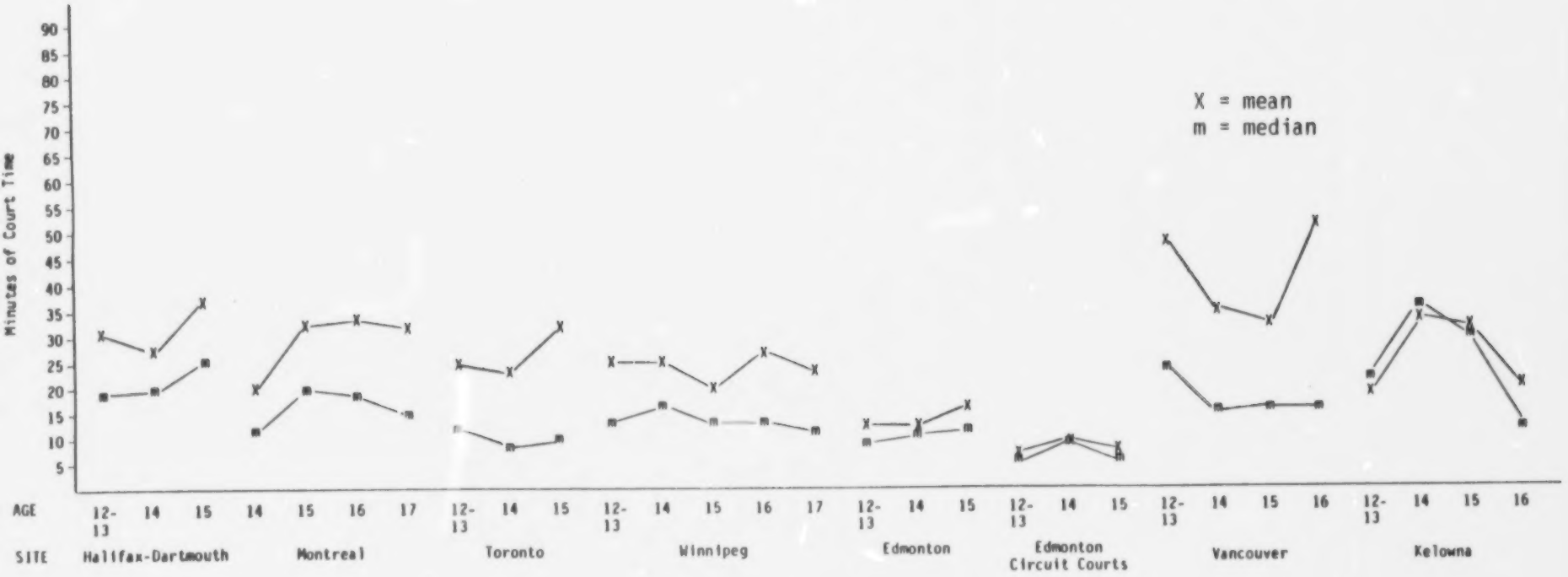
[1]The court observation instrument included items on the time the hearing began and ended. The total number of known minutes for each juvenile was calculated by adding the minutes taken by each hearing. As a result of missing data, the number of minutes per case is a slight underestimate of the actual courtroom time required to process the case.

Figure 4.4

MEAN AND MEDIAN NUMBER OF COURTROOM MINUTES TAKEN TO PROCESS THE JUVENILE'S CASE BY AGE



workload of the court, site-specific administrative practices, the proportion of not guilty pleas and trials, and judicial practices (e.g., the frequency of court-requested reviews of disposition).

There were large differences among the courts in the number of days required to process the juvenile's most serious charge. Montreal processing periods were the longest of all courts, with a median number of days between first and last hearing of 75. Winnipeg cases took a median period of 2 months to complete, whereas in Vancouver the median length of time was 3 weeks between initial hearing and final outcome. In the circuit courts outside of Edmonton and in Kelowna, about one-half of the cases ended the day they began. Of the major city courts, Toronto had the fewest time delays, with the typical case finishing one day after it began.

Older juveniles did not experience more time delays between their first and last hearings in the Quebec courts, Winnipeg, or in the two British Columbia Study sites. The Winnipeg 17 year olds typically took less than one-half of the time to be processed that younger persons took. There was therefore no evidence to suggest that 16 and 17 year olds experienced lengthier delays than did younger persons at the same location. However, in both Toronto and Edmonton, the youngest age groups had a lower median number of days between first and last hearing than did the older age categories; on the other hand, the mean processing times did not differ substantially by age in those courts.

Juvenile Court Outcomes

The relationship between the age of the young person and the outcome and disposition of his or her juvenile court case is described in several ways: whether the juvenile was found delinquent on any current charges; the type of disposition imposed (minimally interventionist "other" dispositions, probation, and custody); the use of compensatory dispositions, such as restitution and community service; and transfers to adult court.[1]

For a variety of reasons, some juveniles referred to court were not found delinquent on any of their current charges. In these situations, all charges may have been withdrawn, stayed, or adjourned *sine die* prior to adjudication under s. 16 of the *Juvenile Delinquents Act*; the accused may have been found not guilty or all charges were dismissed; or, in Winnipeg, the judge struck the guilty plea and adjourned the charges indefinitely under s. 16 after the young person had completed what that court termed a "period of progress". This latter practice accounts for the large proportion of Winnipeg youth who were not adjudicated delinquent on any charge during the Study period (Figure 4.5). In that city, 38% of the sample were not adjudicated delinquent on a current charge; in contrast from 2%, in Kelowna, to 24%, in Vancouver, of the other court samples resulted in no finding of delinquency.

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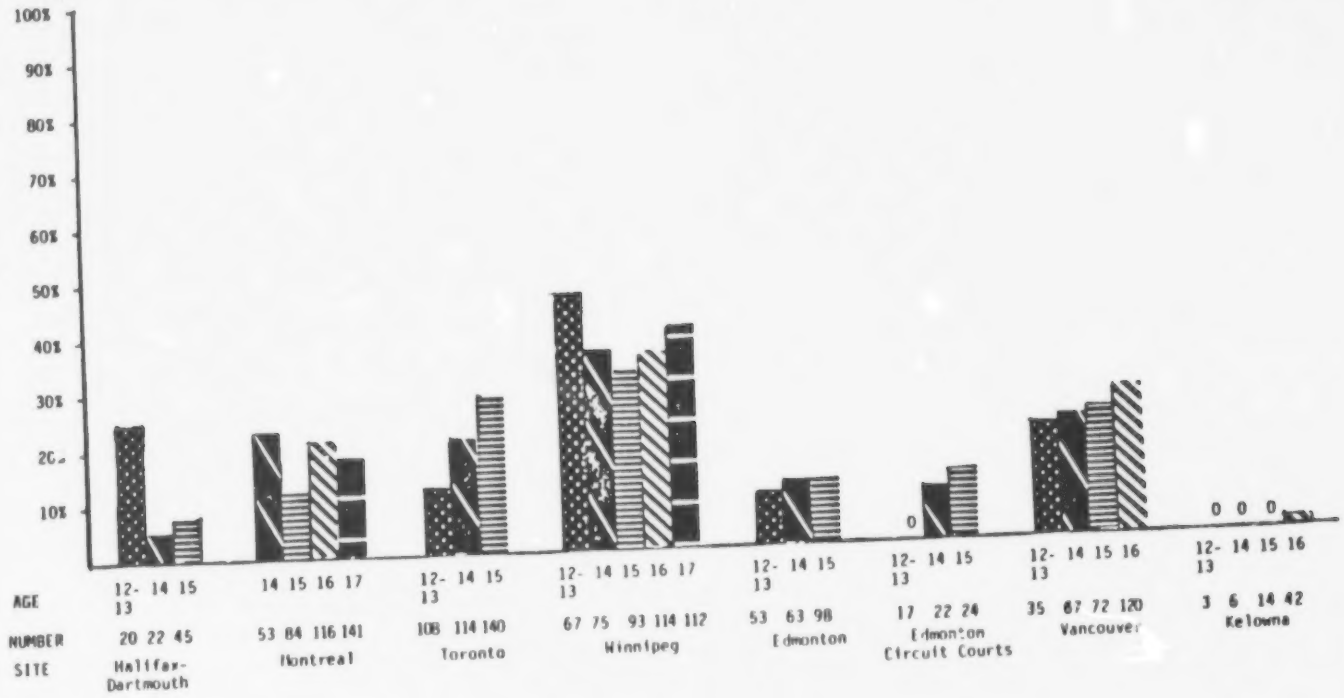
[1]With two exceptions, the outcomes reported here are those reached on the most serious charges of the juvenile. One exception is the use of compensatory dispositions; the distribution reported is the proportion of juveniles receiving such a disposition on *any* current charge. The second exception is the discussion of transfer to adult court, data which also refer to transfer on any of the accused's current charges.

Figure 4.5

PERCENT OF EACH AGE CATEGORY NOT ADJUDICATED DELINQUENT ON ANY CURRENT CHARGE



There were two significant age variations in the proportion of accused who were not adjudicated delinquent, but in opposite directions. Older juveniles in Toronto were more likely to have had their charges terminated prior to adjudication than were younger persons, whereas in Halifax-Dartmouth it was the 12-13 year old group whose charges were most often terminated. In the jurisdictions with a higher upper age limit, the proportions of 16 and 17 year olds not found delinquent were approximately the same as younger juveniles.

For those juveniles who were adjudicated delinquent on their most serious current charge, dispositions have been categorized as probation, "training school", and "other" dispositions.[1] A term of probation was frequently imposed by juvenile court judges (Figure 4.6). The courts differed, however, in the extent to which probation was employed. The two Study courts in British Columbia imposed probation more often than did the other courts; about three-quarters of the Vancouver and Kelowna samples were placed on probation on their most serious current charge. This high rate may be partly explained by the linking of almost all restitution and community service orders to a short period on probation. In Toronto, where only 32% of the offenders received probation, the Restitution and Community Service Order Program permitted the monitoring of compensatory dispositions without the imposition of a probation order.

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[1]Included in the "training school" category of dispositions are "secure detention" (Montreal), compulsory care orders (the Alberta courts), and committals to "industrial schools" (the remaining sites).

Figure 4.6

THE DISPOSITION RECEIVED ON THE MOST SERIOUS CURRENT CHARGE BY AGE

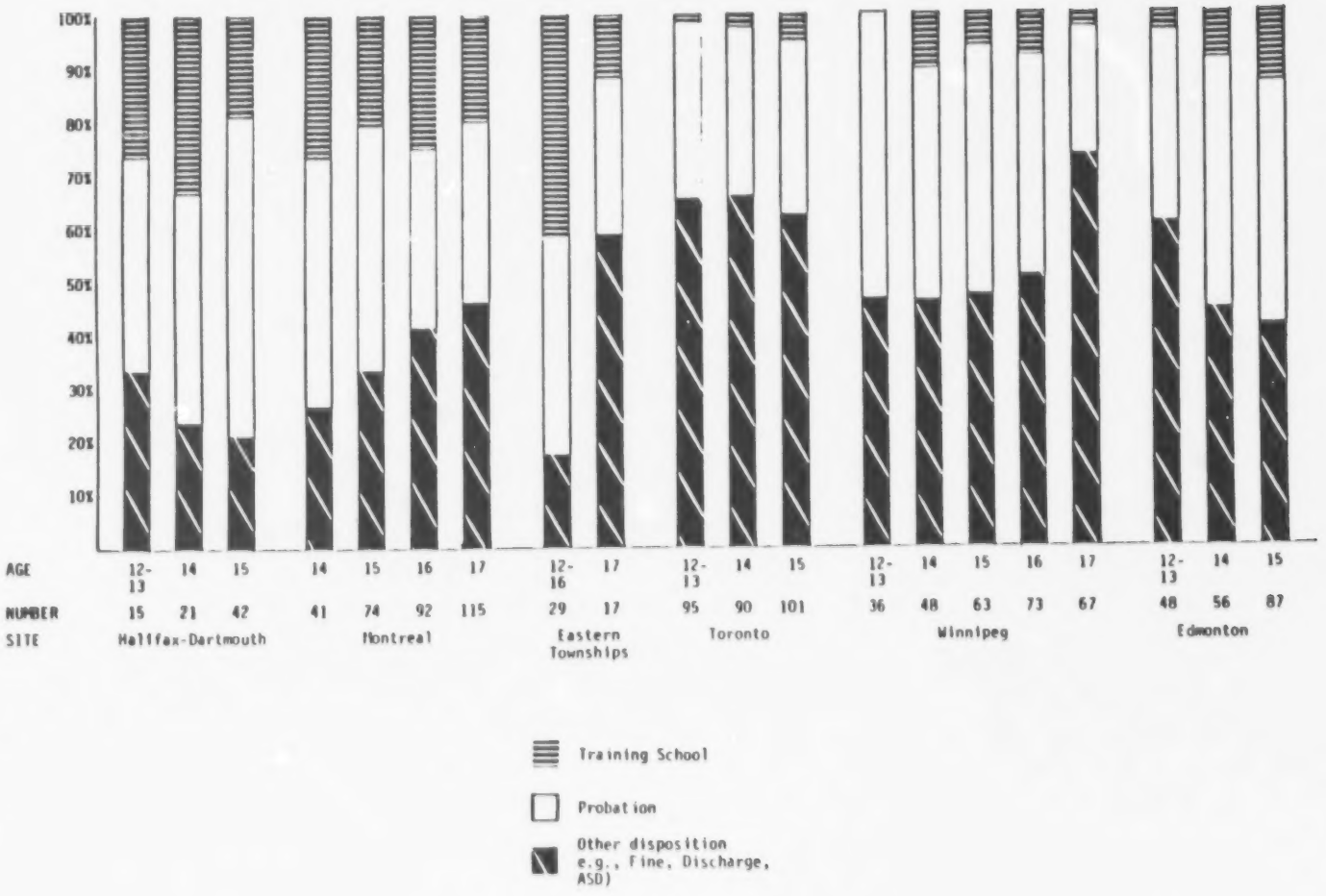
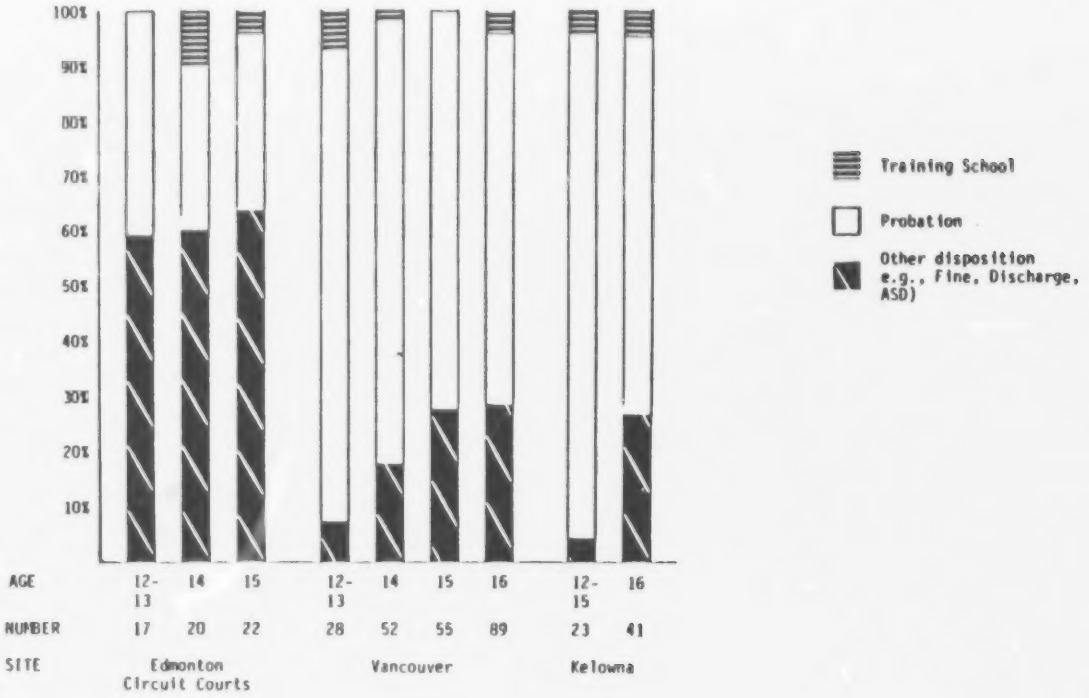


Figure 4.6 (cont. p. 2)

THE DISPOSITION RECEIVED ON THE MOST SERIOUS CURRENT CHARGE BY AGE



The most severe disposition available to the courts was custody. Custodial dispositions ("training school") were infrequently imposed in Toronto and all Study courts in western Canada, irrespective of the jurisdiction's maximum age: the proportions receiving custody ranged from 3% to 10%. In Halifax-Dartmouth and the Quebec courts, between 22% and 30% of the samples were sentenced to custody on their most serious charge.

In addition to probation and custody, there were a number of other dispositions available to the juvenile courts. For the purpose of this analysis, all remaining dispositions have been collapsed into one "other" category. "Other" dispositions included: fines, conditional discharge, adjournment sine die after adjudication, and compensation to the victim or the community with no accompanying probation order. These "other" dispositions often involved moderate or no intervention into the life of the offender and were considered to be less serious than a probation order -- and, of course, training school -- by most court personnel. These more minor dispositions were most frequently encountered in the Toronto court, where almost two-thirds (64%) of the offenders had such dispositions.

Turning to the age variations in the dispositions imposed on the young offenders, in four courts -- Halifax-Dartmouth, Montreal, Toronto, and the Edmonton circuit courts -- there was no relationship between dispositions and age. In most sites where there was a significant variation, the trend was for younger offenders to receive more "interventionist" sentences than older

juveniles:

- In the Eastern Townships, the 17 year olds disproportionately were sentenced to an "other" disposition, whereas younger persons were more likely to be placed on probation or sentenced to custody.
- The trend was similar in Winnipeg, where almost three-quarters of the 17 year olds were given a minimally interventionist "other" disposition, compared to about one-half of the 12 to 16 year olds.
- Dispositions imposed on Edmonton's 14 and 15 year olds did not significantly differ, but the 12-13 year olds had a greater likelihood of being sentenced to an "other" disposition.
- Vancouver and Kelowna shared some similarities in the age distribution of dispositions. In the former city, the 15 and 16 year olds received an "other" disposition in larger proportions than did the younger groups. Kelowna 16 year olds also disproportionately received these less severe "other" dispositions.

Therefore, the analysis of the dispositional data showed that there were few age differences in the direction originally anticipated. Older accused did not receive more serious dispositions than did other juveniles.[1] The relationships between age and dispositions presented here have not shown a positive association between age and the severity of sentences.

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[1]Edmonton was a possible exception. There was a non-significant trend for the older juveniles to receive a compulsory care order (secure custody). Four percent of the 12-13 year olds, 9% of the 14 year olds, and 14% of the 15 year olds received that sentence (chi-square $p < .10$).

When associations between age and dispositions were controlled by the seriousness of the charges and the prior record of the accused -- in order to establish if these "test factors" revealed any relationships to age obscured in the bivariate analysis described above -- no significant relationships between age and dispositions emerged.

The Young Offenders Act encourages the use of compensatory dispositions such as restitution and community service orders by the youth court. Other than in the Quebec courts, compensatory sanctions occurred with moderate frequency in the Study courts under the J.D.A. In two courts, there was an age difference in the use of compensation to the victim or to the community. In Halifax-Dartmouth, such dispositions increased with age, but in Vancouver, it was the 12-13 year olds who were most likely and the 16 year olds the least likely to receive a compensatory sentence.

One option open to the court under both the J.D.A. and now the Y.O.A. is to transfer the offence to the adult court. It has been predicted that the number of transfers would increase under the Y.O.A., in part because of the increase in the maximum age in most provinces and territories. Under the J.D.A., transfers to adult court were usually reserved for juveniles charged with very serious offences, or those who had exhausted the resources of the juvenile correctional system.

Only 18 of the 1,995 juveniles on which this research obtained data were transferred out of the juvenile justice system:

- two persons in Montreal -- one 16 year old, one 17 year old (1% of the 16 and 17 year olds in the sample);
- eleven in Winnipeg -- one 16 year old, ten 17 year olds (in total, 5% of the 16 and 17 year olds were transferred);
- three youth in Edmonton were waived to adult court -- one 14 year old, two 15 year olds (2% of that group); and,
- two 16 year olds in Vancouver (2% of the 16 year olds).

Therefore, at the time of the National Study, the procedure of waiver to adult court was indeed restricted to the oldest juveniles; however, it was of minimal significance to the operation of the courts in general, and the handling of the 16 and 17 year olds in particular, even in Montreal and Winnipeg.

Summary

As was discussed in the Chapter 3 summary, the small sample size of the courts in the Eastern Townships, the circuits north of Edmonton, and Kelowna make it difficult to draw firm conclusions as to the nature of the relationships between age and court processing for these courts. In this summary, we shall outline the few associations that were found and in which we have some confidence.

In Halifax-Dartmouth, an anomalous relationship between age and legal representation was found: the 14 year olds were most likely to have retained a lawyer. There was a direct association between age and the introduction of pre-disposition reports; i.e., a larger proportion of older than younger youth were the subject of such reports. The oldest age group was least likely to have had all charges terminated prior to adjudication; compensatory dispositions increased with age.

Very few relationships to age were apparent in the Quebec courts. There was, however, a trend for 16 and 17 year olds to have received a pre-disposition report less often than did their younger peers. Although no age differences in dispositions occurred in Montreal, 17 year olds in the Eastern Townships disproportionately were sentenced to a minimally interventionist "other" disposition.

Three associations between age and court processing occurred in the Toronto data. The 12 and 13 year olds were significantly more likely to have had a psychological report than were others. On the other hand, this group had the least delay between their first and last appearance. In Toronto, a larger percentage of 15 year olds (the oldest group) had all charges terminated before adjudication than did other groups.

The Winnipeg data produced the only association between age and the nature of the plea but in an unanticipated direction. The 17 year olds were less likely to plead not guilty, and slightly more likely to make no plea at all, than were other ages. This oldest age category was also less likely to have had four or more hearings, had shorter court processing than did others, and was more likely to be sentenced to a less serious "other" disposition.

The Edmonton court was the sole court where the few significant relationships were all in the expected direction. Older juveniles (14-15 year olds) were disproportionately detained. A larger percentage of 15 year olds in both Edmonton and the circuit courts had representation by retained counsel. Older juveniles also experienced somewhat slower processing in terms of the number of days between first and last hearing. The 14 and 15 year olds were less likely to receive an "other" disposition than were the 12 and 13 year olds.

In Vancouver, the 14 to 16 year olds were somewhat more likely to have been represented by counsel of some kind than were the 12-13 year olds, but were less likely to have been the subject of a psychological report. The 15 and 16 year olds disproportionately received an "other" disposition when compared to the 12 to 14 year olds. A lower percentage of the 16 year group were sentenced to a compensatory disposition.

The preceding analysis indicates that age was not strongly or systematically associated with the court process experienced by the samples. In general, whatever the age of the accused, he or she tended to have processes similar to others in the same court. In very few courts, the relationships that were apparent indicated that the oldest age group was slightly less likely to place a burden on the court with regard to the number of hearings required to process the case, and the preparation of social or psychological reports. On the other hand, in one court (Edmonton), detention use rose with age, and in three courts (Edmonton, the circuit courts and Vancouver), lawyers more often acted for the older juveniles. With regard to case outcomes, in five sites there was a trend for the older groups to receive less severe outcomes.

Chapter 5: THE RELATIONSHIP BETWEEN AGE AND THE DIVERSION PROCESS

Introduction

At the time of the National Study in 1981-2, provincial screening agencies existed in three of the six jurisdictions in which the research was undertaken. All juveniles whom the police wanted to charge were referred to probation personnel in Winnipeg, the Crown Attorney's office in Vancouver and Kelowna (where, in conjunction with probation, the diversion decision was made after a pre-court inquiry), and to a delegate of the Directors of Youth Protection in Montreal.

Data on diverted youth obtained from the files of the screening agencies in Montreal, Winnipeg, Vancouver and Kelowna were collected by the Study researchers located in those communities. The sampling period for the diverted cases was comparable to that of the court-referred sample, and the type of information collected was identical as far as possible.

The first sections of this chapter parallel the discussion in Chapter 2; they describe the characteristics of the total diversion sample in terms of its age distribution, the proportion of diverted youth apprehended for provincial versus Criminal Code and other federal offences, the relationship between age and being apprehended for solely provincial violations, and the potential impact on screening agency caseloads of restricting federal jursdiction to persons 12 or more years accused of federal offences.

The age distribution of diverted persons between the ages of 12 and 17 years is contrasted to that of the court-referred samples. Finally, the last section of this chapter treats the decision to divert as the dependent variable, and examines whether there were any relationships between age and the decision of the screening agencies in the four sites from which diversion data were obtained.

The Age Distribution of the Diversion Sample

Data on the age of the total sample of diverted cases -- including persons under the age of 12 years and those accused of only provincial offences -- are shown on Table 5.1. With the exception of Winnipeg, where 37% of the diversion sample was between the ages of 7 and 11 at the time of offence, it is evident that few persons under 12 were referred to the screening agencies. In other communities, the percentages of persons under 12 years ranged from 1%, in both Montreal and Kelowna, to 5%, in Vancouver.

Table 5.1

THE AGE DISTRIBUTION OF THE DIVERSION SAMPLE

	Montreal	Winnipeg	Vancouver	Kelowna
7-11 years	1.1% (6)	36.5% (223)	5.1% (7)	0.7% (1)
12-13 years	5.0 (28)	17.7 (108)	21.0 (29)	8.8 (12)
14 years	12.6 (71)	12.6 (77)	23.9 (33)	13.1 (18)
15 years	24.3 (137)	13.3 (81)	15.9 (22)	19.0 (26)
16 years	27.8 (157)	10.5 (64)	34.1 (47)	58.4 (80)
17 years	29.3 (165)	9.5 (58)	N.A.	N.A.
Total percent	100.1%	100.1%	100.0%	100.0%
Total number	564	611	138	137

Note that the totals exclude persons whose age was not known (a total of 42 young persons).

The Type of Allegations: Provincial and Federal Offences

The diversion sample was predominantly accused of only Criminal Code and other federal offences in the three large city courts from which screening agency data were obtained (Table 5.2). In Montreal, Winnipeg, and Vancouver, juveniles accused of only provincial offences were in a minority: from 6% of the Winnipeg to 17% of the Vancouver sample. However, in Kelowna, three-fifths of the diversion sample were accused of provincial offences, and no federal charges. As described in Chapter 2, Kelowna probation personnel routinely screened many provincial offences away from a court appearance until the summer of 1981. After that time, many such cases were referred to court.

Table 5.2

THE TYPE OF CASE (PROVINCIAL OFFENCES ONLY, BOTH PROVINCIAL AND FEDERAL OFFENCES, AND CRIMINAL CODE/OTHER FEDERAL OFFENCES ONLY), BY SITE: THE DIVERSION SAMPLE

	Montreal	Winnipeg	Vancouver	Kelowna
Provincial offences only	16.1% (90)	6.2% (24)	16.8% (22)	59.6% (81)
Both provincial C.C./other federal offences	2.0 (11)	0.5 (2)	0.8 (1)	3.7 (5)
C.C./other federal offences only	81.9 (457)	93.3 (362)	82.4 (108)	36.8 (50)
Total percent	100.0%	100.0%	100.0%	100.1%
Total number	558	388	131	136

This table excludes diversion cases where the young person was between the ages of 7 and 11 years.

There was no relationship between age and the proportion of accused charged with only provincial offences (i.e., all alleged violations were found in provincial statutes) in either Montreal or Winnipeg (Table 5.3). However, in both Vancouver and Kelowna, the older the diverted youth, the greater the likelihood that he or she was accused of only a provincial statute charge.

Table 5.3

THE PERCENTAGE OF EACH AGE CATEGORY WHO WERE ACCUSED OF PROVINCIAL OFFENCES ONLY: THE DIVERSION SAMPLE

Site	Montreal						Winnipeg					
Age	12-13 years	14 years	15 years	16 years	17 years	Total	12-13 years	14 years	15 years	16 years	17 years	Total
Provincial offences only	14.3%	12.7%	16.1%	15.3%	18.8%	16.1%	6.5%	3.9%	9.9%	7.8%	1.7%	6.2%
One or more C.C/other federal offence	85.7	87.3	83.9	84.7	81.2	83.9	93.5	96.1	90.1	92.2	98.3	93.8
Total percent	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Total number	28	71	137	157	165	558	108	77	81	64	58	388
Chi-square	1.641	df = 4					4.895	df = 4				
p	N.S.						N.S.					

Site	Vancouver						Kelowna					
Age	12-13 years	14 years	15 years	16 years	17 years	Total	12-13 years	14 years	15 years	16 years	17 years	Total
Provincial offences only	3.4%	0%	13.6%	38.3%		16.8%	16.7%	33.3%	53.9%	73.8%		59.6%
One or more C.C/other federal offence	96.6	100.0	86.4	61.7		83.2	83.3	66.7	46.1	26.3		40.4
Total percent	100.0%	100.0%	100.0%	100.0%		100.0%	100.0%	100.0%	100.0%	100.1%		100.0%
Total number	29	33	22	47		131	12	18	26	80		136
Chi-square	26.067	df = 3					21.347	df = 3				
p	<.001						<.001					

The Combined Effect on Screening Agency Caseloads of Restricting the Jurisdiction of the Youth Court to Persons aged 12 Years or more and to those Accused of Federal Offences

An estimate can be made using National Study data of the effects on the screening agency caseloads of restricting the jurisdiction of the youth court. In both Montreal and Vancouver, the potential effects would be moderate -- that is, a drop of 17% and 21%, respectively, in the numbers of accused being processed by the provincial screening agency. The caseload decrease would potentially be much larger in Winnipeg and Kelowna: 40% of the Winnipeg diversion sample was under 12 years of age or accused of only provincial offences, as were 60% of the diversion cases in Kelowna. (See Table 5.4.)

Table 5.4

AN ESTIMATE OF THE POTENTIAL IMPACT OF ELIMINATING YOUTH 7 TO 11 YEARS AND PROVINCIAL/MUNICIPAL OFFENCES ON SCREENING AGENCY CASELOADS: THE DIVERSION SAMPLE

	Total sample (N)	N of provincial offenders and persons 7-11	Percent of total sample
Montreal	564	96	17%
Winnipeg	611	247	40%
Vancouver	138	29	21%
Kelowna	137	82	60%
Total	1,450	454	31%

While provinces have taken measures to deal with provincial offenders using procedures similar to those found in the Young Offenders Act, these data suggest that in terms of cases entering the juvenile justice system that fall under federal jurisdiction, the Act probably brought a moderate to substantial reduction in the caseloads of the provincial screening agencies.

The Age Distribution of the Diversion Sample 12 Years or More and Accused of Federal Offences

The diversion sample was made up of persons who were younger than the court-referred sample in three of the four sites for which comparable data were obtained: about one-third of the diverted group in Winnipeg were 16 or 17 years old, in contrast to 49% of the court-referred sample; 27% of the Vancouver diversion cases were 16 years of age, lower than the 41% of the court-referred group; 38% of the Kelowna diverted youth were 16 years of age, while almost two-thirds of the court-referred accused were that age. The age difference between diverted and court-referred juveniles was not nearly as great in Montreal, where 57% of the diversion sample were 16 or 17 years, compared to 65% of the court sample. (Compare Table 5.5 to Table 2.4.)

Table 5.5

THE AGE DISTRIBUTION OF PERSONS 12 YEARS OR MORE ACCUSED OF FEDERAL OFFENCES: THE DIVERSION SAMPLE

Site	Montreal	Winnipeg	Vancouver	Kelowna
12-13 years	5.1% (24)	27.7% (101)	25.7% (28)	18.2% (10)
14 years	13.2 (62)	20.3 (74)	30.3 (33)	21.8 (12)
15 years	24.6 (115)	20.1 (73)	17.4 (19)	21.8 (12)
16 years	28.4 (133)	16.2 (59)	26.6 (29)	38.2 (21)
17 years	28.6 (134)	15.7 (57)	N.A.	N.A.
Total percent	99.9%	100.0%	100.0%	100.0%
Total number	468	364	109	55

Age and the Decision to Divert

On Table 5.6 is found the percentage of each category who were screened from court. In Winnipeg, Vancouver and Kelowna, the youngest age category was about twice as likely to have been diverted when compared to the oldest age groups in those courts. That is, age was strongly associated with the diversion decision, with older persons much less likely to be diverted than the younger juveniles. Although all young persons of 12 or 13 years were screened from a formal court appearance in Montreal, 14 to 17 year olds did not significantly differ in terms of the proportion diverted.

Therefore, age was not related to the decision by the screening agency in Montreal, but was closely associated with that decision in the three other communities involved in the National Study.

We pursued this analysis by introducing a number of control variables in order:

- in the case of Montreal, to determine if any of these additional factors suppressed relationships that existed between age and diversion, thereby concealing a true relationship for a subset of the population. Did any relationships to age emerge in one or more of the contingent associations?
- in Winnipeg, Vancouver, and Kelowna, to determine if the control factors further elaborated the existing bivariate relationships

Table 5.6

THE PERCENTAGE OF EACH AGE CATEGORY WHO WERE DIVERTED AND COURT-REFERRED

Site	Montreal						Winnipeg					
Age	12-13 years	14 years	15 years	16 years	17 years	Total	12-13 years	14 years	15 years	16 years	17 years	Total
Diverted	100.0% (24)	53.9% (62)	57.8% (115)	53.4% (133)	48.7% (134)	54.3% (468)	60.1% (101)	49.7% (74)	44.0% (73)	34.1% (59)	33.7% (57)	44.1% (364)
Court-referred	(0)	46.1 (53)	42.2 (84)	46.6 (116)	51.3 (141)	45.7 (394)	39.9 (67)	50.3 (75)	56.0 (93)	65.9 (114)	66.3 (112)	55.9 (461)
Total percent	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Total number	24	115	199	249	275	862	168	149	166	173	169	825
Chi-square	24.702	df = 4;	3.903	df = 3	if 12-13 year		33.744	df = 4				
p	<.001		N.S.		olds are excluded		<.001					

Site	Vancouver						Kelowna					
Age	12-13 years	14 years	15 years	16 years	17 years	Total	12-13 years	14 years	15 years	16 years	17 years	Total
Diverted	44.4% (28)	33.0% (33)	20.9% (19)	19.5% (29)		27.0% (109)	76.9% (10)	66.7% (12)	46.2% (12)	33.3% (21)		45.8% (55)
Court-referred	55.6 (35)	67.0 (67)	79.1 (72)	80.5 (120)	N.A.	73.0 (294)	23.1 (3)	33.3 (6)	53.8 (14)	66.7 (42)	N.A.	54.2 (65)
Total percent	100.0%	100.0%	100.0%	100.0%		100.0%	100.0%	100.0%	100.0%	100.0%		100.0%
Total number	63	100	91	149		403	13	18	26	63		120
Chi-square	17.558	df = 3					12.174	df = 3				
p	<.001						<.01					

between age and diversion. Under what conditions was the original bivariate relationship maintained or eliminated?

The variables that were introduced as controls, or "test factors", were the same or very similar to those discussed in Chapters 3 and 4 with regard to the relationships between age and other factors for the court-referred sample alone: gender; social factors, such as living arrangements, legal status, activity status, and child welfare court proceedings; legal factors, including the seriousness of the most serious allegation, the number of current allegations, the type of offence and prior record.[1]

The analysis revealed that, in fact, the control variables only rarely altered the original association, of lack of association, between age and diversion. The analysis that follows briefly describes the results in those instances where the introduction of these additional factors produced a difference in the original relationships (or non-relationships).

In Montreal, there were three variables that produced significant associations that did not appear in the original bivariate relationships between the age of the apprehended juvenile and the decision to screen from a court appearance. All three factors were related to the legal aspects of the case.

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[1]The number of diverted youth with a prior record was too small for analysis in Winnipeg, Vancouver and Kelowna.

First, when the major offence category of the juvenile's most serious offence (i.e., offences against property, against persons, and "other" offences) was introduced as a control, offences against the person appeared to show a relationship between age and diversion: 17 year olds apprehended for such a charge were about one-half as likely as 14 to 16 year olds to have been diverted.[1] It would appear that age has some importance in the decision when person offences are involved: whether this is because older juveniles were apprehended for more serious offences against the person, such as robbery, or because person offences committed by 17 year olds were perceived as more serious, cannot be determined from the data. (See Table 5.7.)

In a similar result, when the Criminal Code classification of the most serious allegation was controlled for (i.e. indictable versus hybrid or summary conviction offences), the 17 year olds had a lower likelihood of being diverted for indictable offences.[2] However, there was no association between age and seriousness when the less serious hybrid and summary allegations were considered. (See Table 5.8.)

The third factor which produced a relationship between age and diversion in Montreal was the number of current allegations (the number of current charges in the case of the court-referred group). There was no significant relationship between age and diversion for the persons accused of three or

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[1]Chi-square $p < .10$ if the 14-16 year olds were contrasted to 17 year olds.
[2]Chi-square $p < .05$

Table 5.7

THE MAJOR OFFENCE CATEGORY OF THE MOST SERIOUS CURRENT ALLEGATION BY AGE:
THE DIVERSION AND COURT-REFERRED SAMPLE

Site: Montreal

Major offence category	Property						Person					
Age	12-13 years	14 years	15 years	16 years	17 years	Total	12-13 years	14 years	15 years	16 years	17 years	Total
Diverted	100.0%	56.8%	61.2%	55.3%	53.4%	58.0%	100.0%	37.5%	27.3%	30.6%	14.9%	26.0%
Court-referred	0	43.2	38.8	44.7	46.6	42.0	0	62.5	72.7	69.4	85.1	74.0
Total percent	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Total number	21	95	165	179	178	638	2	16	22	36	47	123
Chi-square*	2.308 df = 3						4.569 df = 3; 3.218 df = 1 if table recategorized as 14-16 year olds versus 17 year olds					
p	N.S.						N.S.		p <.10			

Major offence category	Other					
Age	12-13 years	14 years	15 years	16 years	17 years	Total
Diverted	100.0%	50.0%	66.7%	67.6%	64.0	65.3%
Court-referred	0	50.0	33.3	32.4	36.0	34.7
Total percent	100.0%	100.0%	100.0%	100.0%	100.0	100.0%
Total number	1	4	12	34	50	101
Chi-square*	-					

*Excluding the 12-13 year olds

Table 5.8

THE CRIMINAL CODE CLASSIFICATION OF THE MOST SERIOUS CURRENT ALLEGATION BY AGE:
THE DIVERSION AND COURT-REFERRED SAMPLE

Montreal

	Indictable						Hybrid and Summary					
Age	12-13 years	14 years	15 years	16 years	17 years	Total	12-13 years	14 years	15 years	16 years	17 years	Total
Diverted	100.0%	41.7%	51.5%	44.0%	35.1%	44.0%	100.0%	74.4%	70.1%	67.7%	66.1%	69.8%
Court-referred	0	58.3	48.5	56.0	64.9	56.0	0	25.6	29.9	32.3	33.9	30.2
Total percent	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Total number	10	72	132	150	154	518	14	43	67	99	121	344
Chi-square*	7.977	df = 3					1.132	df = 3				
p	<.05						N.S.					

*Excluding the 12-13 year olds.

more charges (Table 5.9). If juveniles accused of only one offence are examined, there was a trend for the percentage of diverted youth to decrease with age. It may be that age is taken into consideration when the youth is apprehended for only one offence; that is, the older the young person, the more likely that he or she is seen as having greater responsibility for his/her own action, and therefore "requiring" a court referral. (It is noteworthy that there was no association between age and diversion when prior record was introduced as a test factor.) Furthermore, there was also a significant association between age and diversion for the Montreal persons accused of two current offences.[1] The association here appears anomalous and could possibly be spurious (i.e., due to factors other than the number of allegations): 14 year olds with two allegations were least likely to be diverted, and 15 year olds were most likely to be diverted.

Only one control factor appeared to affect the generally strong relationships between age and diversion in Winnipeg. Persons apprehended for indictable offences did not show a <u>significant</u> relationship[2] between age and the diversion decision. It is possible that decision-makers in Winnipeg, unlike those in Montreal, perceived that indictable accused of all ages should be dealt with by the court, rather than informally.

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[1]Chi-square $p < .05$

[2]However, there was a non-significant trend for the proportions of diverted youth to decrease with age. See Table 5.10.

Table 5.9

THE NUMBER OF CURRENT ALLEGATIONS BY AGE: THE DIVERSION AND COURT-REFERRED SAMPLE

Site: Montreal

1 charge

Age	12-13 years	14 years	15 years	16 years	17 years	Total
Diverted	100.0%	90.7%	86.0%	79.0%	70.2%	80.8%
Court-referred	0	9.3	14.0	21.0	29.8	19.2
Total percent	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Total number	20	43	43	81	84	271
Chi-square*	8.796	df = 3				
p	<.05					

2 charges

Age	12-13 years	14 years	15 years	16 years	17 years	Total
Diverted	100.0%	40.6%	68.4%	54.8%	54.3%	57.1%
Court-referred	0	59.4	31.6	45.2	45.7	42.9
Total percent	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Total number	2	32	79	73	94	280
Chi-square*	8.079	df = 3				
p	<.05					

3 or 4 charges

Age	12-13 years	14 years	15 years	16 years	17 years	Total
Diverted	100.0%	33.3%	50.0%	48.9%	47.5	47.0%
Court-referred	0	66.7	50.0	51.1	52.5	53.0
Total percent	100.0%	100.0%	100.0%	100.0%	100.0	100.0%
Total number	2	24	36	47	40	149
Chi-square*	-					
Chi-square	1.976	df = 3				
p	N.S.					

5 or more charges

Age	12-13 years	14 years	15 years	16 years	17 years	Total
Diverted	0	12.5%	14.6%	12.5%	8.8	11.7%
Court-referred	0	87.5	85.4	87.5	91.2	88.3
Total percent		100.0%	100.0%	100.0%	100.0%	100.0%
Total number	0	16	41	48	57	162
Chi-square	-					

Table 5.10

THE CRIMINAL CODE CLASSIFICATION OF THE MOST SERIOUS CURRENT ALLEGATION BY AGE: THE DIVERSION AND COURT-REFERRED SAMPLE

Site: Winnipeg

Age	Indictable						Hybrid and Summary					
	12-13 years	14 years	15 years	16 years	17 years	Total	12-13 years	14 years	15 years	16 years	17 years	Total
Diverted	26.6%	21.6%	17.4%	18.9%	14.6%	20.4%	80.8%	64.3%	54.2%	40.8%	39.8%	54.7%
Court-referred	73.4	78.4	82.6	81.1	85.4	79.6	19.2	35.7	45.8	59.2	60.2	45.3
Total percent	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Total number	64	51	46	53	41	255	104	98	120	120	128	570
Chi-square	2.713	df = 4					52.892	df = 1				
p	N.S.						<.001					

Similarly, in Vancouver, there was only one instance where a control factor eliminated the relationship between age and diversion. Although there was a strong association between age and the decision by the screening agency for males, there was no association for females. For the young women, age was not apparently a significant factor in diversion. (See Table 5.11.)

This analysis has been performed in order to test whether age was correlated with the decision to divert young persons by the screening agencies in four city courts. The data show that, with some exceptions, in Winnipeg, Vancouver, and Kelowna, there was a relationship between age and that decision even when other factors were introduced as controls. An examination of the marginals on Tables 5.7 to 5.11 (i.e., the "total" columns) shows that there were other factors also apparently involved in the diversion decision. For example, in Vancouver, 24% of the males were diverted, in contrast to 36% of the females (Figure 5.11). Since the main focus of this report is on the relationship between age and other factors, the analysis of factors other than age which may influence the decision is beyond the scope of the present analysis. However, future analysis of the National Study database should be performed in order to determine the variables that are most influential in the decision to screen a young person from intervention by the court. This analysis would show the relative impacts of age, gender, seriousness of offence, etc. on the decision made by the screening agencies.

Table 5.11

GENDER BY AGE: THE DIVERSION AND COURT-REFERRED SAMPLE

Site	Vancouver											
	Male						Female					
Age	12-13 years	14 years	15 years	16 years	17 years	Total	12-13 years	14 years	15 years	16 years	17 years	Total
Diverted	46.3%	29.9%	20.5%	15.0%		23.9%	40.9%	39.4%	22.2%	37.9		36.3%
Court-referred	53.7	70.1	79.5	85.0		76.1	59.1	60.6	77.8	62.1		63.7
Total percent	100.0%	100.0%	100.0%	100.0%		100.0%	100.0%	100.0%	100.0%	100.0%		100.0%
Total number	41	67	73	120		301	22	33	18	29		102
Chi-square	18.324	df = 3					1.915	df = 3				
p	<.001						N.S.					

Chapter 6: SUMMARY AND IMPLICATIONS FOR POLICY AND RESEARCH

Summary of Major Findings

The objective of this research was to determine the relationships, if any, between the age of the accused juvenile and other socio-demographic and case characteristics. Any relationships between age and case characteristics have obvious policy importance in relation to the introduction of the new minimum and uniform maximum age under the Young Offenders Act. Probably the most important hypothesis tested was that an older juvenile would utilize more of the resources of the juvenile court and its allied services than a younger juvenile; thus, that an increase in the number of older juveniles processed by the court would result -- all other things being equal -- in an increased demand for court resources greater than that suggested by the simple numerical increase in cases.

A secondary objective was to determine if the age of the apprehended youth was related to the decision to screen the young persons from court processing to alternative measures. The hypothesis was that the older the young person, the lower the likelihood that he or she would be dealt with by alternative measures.

The analysis utilized data collected by the National Study on the Functioning of the Juvenile Court, in 1981-2, in five "high flow" and several

smaller juvenile courts located in six jurisdictions with varying upper age limits: Nova Scotia (16 years), Quebec (18 years), Ontario (16 years), Manitoba (18 years), Alberta (16 years), and British Columbia (17 years). The research question related to screening agency decision-making was investigated by undertaking a comparative analysis of a diverted sample comparable to the court-referred group, obtained from the files of the screening agencies operating in Montreal, Winnipeg, Vancouver and Kelowna -- four of the nine National Study court locations.

The National Study collected personal and case processing data on all young persons dealt with by the Study screening agencies and juvenile courts during a sample period in the spring and summer of 1981. Because the Study included youth accused of both provincial and federal offences, and children under the age of 12 years, this report also briefly examined the possible impact of restricting the jurisdiction of the youth court to persons over 12 years apprehended for a Criminal Code or other federal violation.

Each of these three topics will be addressed in turn.

Correlates of Age for Court-referred Juveniles 12 to 17 Years Accused of Federal Offences:

The main focus of the analysis in Chapters 3 and 4 was the relationship between age and other personal, case and court processing characteristics.

The hypothesis that older juveniles would utilize court resources out of proportion to their numbers was substantially rejected.

The analysis first explored the degree to which age was associated with various socio-legal factors: the demographic characteristics and the social background of the young person, prior record, and the characteristics of the current charges.

In all nine Study locations, there were relatively few associations between age and the socio-demographic characteristics of the court-referred sample. In two courts, Montreal and Vancouver, larger proportions of younger accused were female, perhaps because younger females were considered more in need of court intervention and assistance than older females. Age was related to race only in the Winnipeg court, where 12 and 13 year olds were disproportionately non-white (largely of Native origin).

The results of the analysis of the relationships between age and the home situation indicate that in several sites, the younger juveniles were in less stable, or conventional, home and custodial situations than were older persons. In Montreal and Kelowna, the oldest age category was more likely to be residing with both parents than were younger persons. When the custodial status of the samples was examined in relation to age, younger Winnipeg and Vancouver juveniles were found to have had a greater likelihood than older juveniles of being outside the legal custody of their parents. Perhaps as a reflection of these aspects of the samples' home situation, in Toronto,

Winnipeg, and Vancouver, significantly larger proportions of the younger juveniles had prior or current involvement with the child welfare court.

The findings from the analysis of the legal factors often found to be associated with juvenile justice decision-making showed that older juveniles were not necessarily more seriously involved in detected criminal activity. Their current charges were neither more numerous nor more serious than the charges laid against younger juveniles referred to the same juvenile court. Prior record was one legal factor that was expected to be closely associated with age, but only in three courts -- Montreal, Winnipeg and Edmonton -- was there a significant association between age and the presence of prior findings of delinquency.

The analysis of the court processing experienced by the different age groups showed that, again, there were few differences by age. Older juveniles did not place a greater burden on court services.[1] With the exception of Edmonton, age was not correlated with the use of detention. Older persons did not have more or longer hearings, more trials, or have more serious or "interventionist" dispositions. On the contrary, there was an indication in

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[1]The sole exception to this general absence of an association between age and court processing was found for legal representation. Older persons in Edmonton and its circuit courts, and in Vancouver, were somewhat more likely than younger juveniles to be assisted by legal counsel or to have retained a lawyer.

one or two courts that the oldest age group was somewhat less likely to have many court hearings, to be the subjects of social-psychological reports, and to be adjudicated delinquent. In four courts, the oldest age group was less likely to be placed on probation or sentenced to custody than were others.

Age and Screening Agency Decisions:

There was a brief examination in Chapter 5 of the relationships between age and the decision to divert by the screening agencies in Montreal, Winnipeg, Vancouver and Kelowna. In the three latter courts, the likelihood of being dealt with by alternative measures decreased markedly as age increased. This was not true in Montreal, where young persons of all ages had equal probability of being diverted. When control variables were introduced in order to examine if these associations, or the lack thereof, altered, the data showed that in the large majority of cases, the introduction of additional factors did not affect the links between age and diversion decision-making.

Thus, the second hypothesis was supported by data found in three Study locations -- age was correlated with screening agency decisions.

Provincial Offences and Juveniles under 12 Years:

Sixteen and seventeen year olds were disproportionately referred to court for provincial offences (and no federal charges), when compared to younger

persons in the same court. This fact has no implications for court workload, since older juveniles do not consume disproportionately more court resources than younger juveniles (see above). In the court-referred groups, juveniles accused of only provincial offences constituted between one-tenth and one-fifth of the samples in the large city ("high flow") courts. However, they generally took less time to be processed by the court than did their counterparts apprehended for a federal offence. Thus we speculate that restriction of jurisdiction of the youth court under the Y.O.A. to federal offences will reduce court workload less than is suggested by the expected numerical reduction in cases.

Very few children under the age of 12 years -- from 0.3% to 7%, depending on the court location -- were referred to the juvenile courts involved in this research. As a consequence we speculated that the effects on court operations of raising the lower limit of court jurisdiction from 7 to 12 years will be minimal.

The total sample of diverted cases was also examined to ascertain the proportions of juveniles accused of only provincial infractions and of children under 12 years. The percentages of provincial offenders ranged between 6%, in Winnipeg and 60%, in Kelowna. In the latter city, at the time of this research, most first offenders accused of provincial statute violations were diverted by the screening agency. Age was positively related to being apprehended for solely provincial offences in two of the four courts (Montreal and Winnipeg being the exceptions) from which screening data were obtained.

Other than in Winnipeg, where all apprehended youth under 12 years[1] were referred to the probation personnel who functioned as diversion decision-makers, children between 7 and 11 years comprised very small proportions of the diversion samples (1% to 5%).

Therefore, in Montreal and Vancouver, the restriction of the jurisdiction of the youth court under the Y.O.A. might be expected to moderately reduce screening agency caseloads (by about one-fifth in each instance). However, in Winnipeg and Kelowna, the decrease in caseload is potentially much larger as a result of the elimination of the under twelves (in Winnipeg) and provincial statute violators (in Kelowna).

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[1]37% of the Winnipeg diversion sample were under 12 years of age; none of these children was referred to court.

Alternative Hypotheses

This analysis has shown that, contrary to our original expectations, the age of youth referred to juvenile court was not positively associated with most of the social and legal variables usually considered as factors that affect court decision-making.

It could be argued, however, that this finding can be explained by the presence of a formal diversion process in four of the courts. This suggestion merits consideration because at the time of the research an institutionalized diversion process existed in the four courts with an older maximum age of 17 or 18 years. In three of these courts (all but Montreal), age was strongly associated with the decision to divert.

The diversion process might have concealed a true relationship between age and the seriousness of current delinquent involvement of the court-referred samples: by skimming off the younger persons accused of less serious offences to alternative measures, the screening agency decisions could have created a court-referred group which was relatively similar in terms of offence seriousness.

We investigated the possibility that it was the layer of screening agency decisions that inhibited a positive relationship between age and the seriousness of the offence in the court-referred samples from jurisdictions where formal screening routinely took place.

This hypothesis was explored by examining the data on the relationship between age and offence seriousness for the combined sample of court-referred and diverted cases. (See Appendix B for further description of the combined samples.) If the hypothesis is correct that the diversion process produced the homogeneity by age in the offence seriousness of the court-referred group, then the combined sample should show a positive correlation between age and the seriousness of the current charges (measured by the percentage of accused with an indictable offence). This argument presumes that, because younger, less serious offenders are referred to diversion screening by the police, an age difference in the seriousness of the charges should appear in the combined sample.

However, there was no association between age and the incidence of indictable offences in either the diverted sample alone or -- more importantly in terms of the present discussion -- in the combined court-referred/diverted samples in any of the four courts with a screening agency. In other words, all apprehended youth, whatever their age, had a similar profile in terms of offence seriousness. (Indeed, in Winnipeg, the younger group was apprehended for more serious offences.)

This finding was identical to the results from the courts where no screening agency existed. In those jurisdictions as well, older age groups were not referred to court by the police on more serious charges than were younger age groups.

Another alternative hypothesis is that the exercise of police discretion produces the non-association between age and seriousness. A greater proportion of younger than older juveniles contacted for non-serious (hybrid or summary) offences may be disposed of informally by the police; whereas similar proportions of younger and older juveniles suspected of more serious (indictable) crimes are referred to court (in the non-diversion provinces) or to the screening agency (in the diversion jurisdictions). Thus, police discretion would be responsible for the zero or inverse association between age and seriousness in the resulting screening agency and court populations.

Evidence supporting this hypothesis is provided by Doob's (1983) study of Youth Bureau decision-making in a suburban county near Toronto. That research found that older juveniles were more likely to be charged than were younger contacted juveniles, but when controls for seriousness, previous police contacts, etc. were introduced, the effect of age on the decision to charge disappeared.

The situation is more complex if prior record is examined. In the court-referred samples in Montreal and Winnipeg (and non-significantly in Vancouver), as age increased, so did the percentage with a past finding of delinquency. In all screening agency sites but one (Kelowna), there was also a positive association between age and the existence of a past conviction for the <u>combined</u> sample of court-referred/diverted youth. These data suggest that, while the police may screen younger juveniles with non-serious current charges, they forward to the screening agency most or all youth with a prior

finding of delinquency. In Winnipeg, Vancouver and Kelowna, the screening agency referred to court almost all recidivists. In Montreal, the delegates of the Directors of Youth Protection (the screening agency) did divert some recidivists, but did not differentiate by age. These decision-making patterns have the effect of keeping the same positive association between age and prior convictions in the court-referred samples as was found in the combined samples of all juveniles apprehended by the police.

However, the Study did not collect data on the prior diversions of the samples in all jurisdictions with screening agencies.[1] It is possible that the direct correlations between age and the existence of a prior record would diminish if data on the ages of youth with past diverted (but not court-referred) charges were available.

In most non-diversion courts (Edmonton being the exception), there was no relationship between prior record and age for the court-referred group. It may be that police screened younger persons with no prior adjudicated delinquencies, producing a court population that had a similar profile in terms of age and recidivism.

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[1]Only in Montreal were data on prior diversions collected.

Implications for Research and Policy

This research has found that the age of the accused young person was not positively associated with most other case characteristics or features of the court process. In spite of the diversity in the clientele and in the juvenile courts involved in the National Study, the analysis has suggested that, in one area at least, there was some consistency across courts: older youth referred to court did not utilize court resources out of proportion to their numbers.

According to the National Study data, the increase in the maximum age of youth court jurisdiction from 16 or 17 years to 18 years does not necessarily mean that the expanded youth court is dealing with a distinct "class" or group of juveniles who are charged with more serious offences. The profiles of the cases appearing in the youth court under the Y.O.A. may not differ substantially from the profiles of the cases earlier appearing in the juvenile court under the J.D.A. -- assuming that the "inputs" to the court systems (inputs that are essentially controlled by police and, in some provinces, screening agency decisions) remain similar under the new legislation.

Now that the uniform maximum age is in effect throughout Canada, this analysis should be replicated in court jurisdictions which had a maximum age of 16 or 17 prior to April, 1985. By examining the case and processing characteristics of the 16 and 17 year old accused in relation to their younger

peers, we can ascertain if in fact the tentative conclusions drawn in this report on the lack of association between age and other factors remain true under the Young Offenders Act.

The present analysis found no relationship between age and the workload of the juvenile court -- that is, the number of hearings per case, and the number of minutes of courtroom time consumed by the case. In order to assess the factors that most affect court workload, a multivariate analysis could be undertaken using the number of hearings and courtroom minutes as the dependent variables. Preliminary analysis at the bivariate level has suggested that the courts in the Study varied in the factors associated with workload. Additional analysis could be done to discover what factors had the most impact on the workload of the juvenile court.

Even though the analysis found few correlates of age in the court-referred sample, screening agency data from Montreal, Winnipeg, Vancouver and Kelowna suggested that the decision to divert young persons was related to age in three courts (all but Montreal). Data not presented in detail in this report indicate that there were a number of relationships other than age between the diversion and socio-legal variables. Additional research could assess the factors that most influence the decision by the screening agency. In view of the Young Offenders Act's support of alternative measures, more detailed analysis of the National Study data could provide valuable information on the processes by which some young persons are diverted to alternative measures and others not.

Finally, the analysis of the numbers of children aged 7 to 11 years, and persons accused of only provincial offences, suggested that the removal of children under 12 years from federal jurisdiction will have a minimal effect on the operation of the system -- with the possible exception of the caseload of the screening agency in Winnipeg. The elimination of provincial offences from federal jurisdiction also may have a variable effect on the system; in most administrations, their elimination will have a moderate effect on the caseloads, and a smaller effect on the workloads, of the courts operating under the authority of the federal Young Offenders Act.

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